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(62) Government Publications

BILL 102

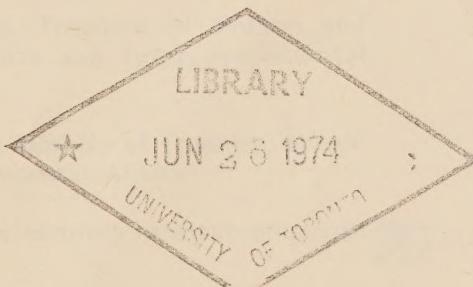
Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Legislative Assembly

**An Act to provide for the
Incorporation of Communities in Territory
without Municipal Organization**

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill empowers the Treasurer to establish, in territory without municipal organization, a community, the inhabitants of which will be a body corporate. An elected council of either three or five members, as the Treasurer determines, will exercise the powers and duties in relation to the community as provided in the Bill. The council is empowered to levy taxes for the purposes of the community and the matters over which it has jurisdiction are set out in Schedule B of the Bill.

A procedural by-law is set out in Schedule A of the Bill to govern the proceedings of the council, which may, with the approval of the Treasurer, be amended by the council.

The organizational expenditures of a new community during its first year of operation, as approved by the Treasurer, may be paid out of the Consolidated Revenue Fund.

BILL 102**1974**

**An Act to provide for the
Incorporation of Communities in Territory
without Municipal Organization**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "community" means an area, the inhabitants of which are constituted a body corporate under this Act;
- (b) "council" means the council of a community;
- (c) "inhabitant" means a permanent resident or a temporary resident having a permanent dwelling within the locality;
- (d) "locality" means any area without municipal organization defined by the Minister;
- (e) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
- (f) "Ministry" means the Ministry of Treasury, Economics and Intergovernmental Affairs.

2. This Act applies only in territory without municipal organization.

Appli-
cation
of Act

INCORPORATION OF COMMUNITIES

- 3.—(1)** The Minister, upon the application to him of not fewer than thirty inhabitants being Canadian citizens or other British subjects having attained the full age of eighteen years, in a locality having a population of not fewer than fifty inhabitants, or on his own initiative, may

by order establish the boundaries of a community and provide that the inhabitants thereof are a body corporate for the purposes of this Act and name such body corporate as "The Corporation of the Community of.....", naming the community.

Proviso
R.S.O. 1970,
c. 349

(2) No community shall be incorporated until the Minister of Housing, on the recommendation of the Minister, has made an order under section 32 of *The Planning Act* pertaining to the proposed community.

Alteration
of
boundaries

(3) The boundaries of a community established under subsection 1 may be varied by the Minister.

Dissolution

(4) The Minister may, upon petition of not fewer than two-thirds of the inhabitants being Canadian citizens or other British subjects having attained the full age of eighteen years, or the council of a community, or on his own initiative, dissolve such community.

Appointment
of hearing
officer

4.—(1) The Minister may, before making any order under subsection 1 or 3 of section 3, appoint a hearing officer to hold a public hearing to inquire into the merits of establishing a community.

Notice of
hearing

(2) The hearing officer shall, in such manner as he considers desirable, give public notice of the hearing referred to in subsection 1 at least fourteen days before the date of such hearing and he may continue the hearing for such number of days as may be required to complete the inquiry.

Report

(3) The hearing officer shall, within one month of the date of completion of the public hearing, make a report to the Minister.

Who
entitled to
be heard

(4) All inhabitants within a locality which it is proposed to incorporate as a community under subsection 1 of section 3, or any inhabitant within a distance of such locality as may be specified by order of the Minister, shall be entitled to be heard at the public hearing mentioned in subsection 1.

COMPOSITION AND ELECTION OF COUNCILS

Council

5.—(1) A council of three or five members, as may be determined by order of the Minister, shall be elected in a community to exercise the powers and duties provided for in this Act.

(2) The elections to the council shall, except as the Minister may by order vary, be conducted in accordance with *The Municipal Elections Act, 1972*. Conduct of elections
1972, c. 95

(3) The Minister shall by order provide for all matters necessary to conduct the elections for the members of the first council. Power of Minister re elections to first council

(4) Every member of council before entering on the duties of his office shall make and subscribe a declaration of office in Form 1 and an oath of allegiance in Form 2. Declaration of office

6.—(1) The council shall hold its first meeting in the first meeting year, following an election, not later than the 15th day of January, and at such meeting shall elect one of its members as chairman.

(2) No business shall be proceeded with at the first meeting until after the declarations of office have been made by all the members who present themselves for that purpose. Declarations of office before business

(3) A council shall be deemed to be organized within the meaning of this Act when the declarations of office have been made by a majority of the members and business may be proceeded with notwithstanding the failure of any of the other members to make such declarations. When council deemed organized

(4) The secretary-treasurer shall preside or, if there is no secretary-treasurer, the members present shall select a member to preside at such first meeting until the chairman of the council is elected and the person so selected may vote as a member. Secretary-treasurer to preside

(5) The Minister shall provide by order for the first meeting of the first council and its term of office. Term of office of first council

CONDUCT OF BUSINESS

7.—(1) A majority of members of council constitutes a quorum, and the business of the council shall, subject to procedure subsection 2, be conducted in accordance with the procedural by-law in Schedule A. Quorum and procedure

(2) The by-law in Schedule A shall be in force in the community as if enacted by the Council thereof, but the council may pass by-laws with the approval of the Minister for making additional requirements or variations in respect of the conduct of its business. Application of Sched. A

Regular meetings open to public	8. —(1) All regular meetings of the council shall be open to the public.
When meetings to be held	(2) The council shall hold such regular meetings as may be determined by the council.
Public meeting	(3) In addition to the regular meetings of council, the council shall hold in May, in each year, a public meeting in the community of which all inhabitants shall be notified by public notice not less than fifteen days prior to the date of holding such meeting.
Annual report by chairman	(4) The chairman shall present to the meeting referred to in subsection 3, an annual report of the affairs of the community in the preceding year including an audited statement of the community's financial affairs.
Remuneration	9. The council may by by-law, approved by the Minister, establish rates of remuneration for its members.
Chairman to preside	10. —(1) The chairman is the head of the council and shall preside at all meetings of the council.
Acting chairman	(2) In the absence of the chairman, or if his office is vacant, or if he refuses to act, the council may, from among its members, appoint an acting chairman who, during such absence, vacancy or refusal to act, shall act in the place of the chairman and preside at the meetings of council.
Exclusion for improper conduct	(3) The chairman may expel or exclude from any meetings any person who has been guilty of improper conduct at the meeting.
Secretary-treasurer	11. —(1) The council shall appoint a secretary-treasurer who shall hold office at the pleasure of the council and have all the powers and duties of the clerk, treasurer and collector of a municipality as specified in <i>The Municipal Act</i> for the purposes of this Act, in so far as such powers and duties are consistent with this Act.
R.S.O. 1970, c. 284	(2) The secretary-treasurer shall receive such remuneration as may be determined by the council with the approval of the Minister.
Remuneration	(3) Every secretary-treasurer, before entering on the duties of his office shall make and subscribe a declaration of office in Form 3 and shall give annually, such security as the council directs for the faithful performance of such duties and for duly accounting for and paying over all moneys that come into his hands.
Declaration of office	

(4) Section 233 of *The Municipal Act* applies *mutatis mutandis* to security to be furnished by the secretary-treasurer.

Application of
R.S.O. 1970,
c. 284, s. 233

AUDIT

12. The Minister shall make such provision as he considers necessary for the annual audit of the books and records of the community.

Audit

FINANCES AND ASSESSMENT

13.—(1) The council shall, in each calendar year, prepare and adopt estimates of all sums required during the year for the purposes of the corporation, including a sum sufficient to pay all debts of the corporation falling due within the year, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Ministry may from time to time prescribe.

Yearly
estimates
and
contents

(2) In preparing the estimates, the council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for the cost of collection, abatement of and discount on taxes, and for uncollectable taxes, and may provide for taxes that it is estimated will not be collected during the year and for such other reserves within such limits as to type and amount as the Ministry may approve.

Allowances
to be made
in estimates

(3) One by-law or several by-laws for levying the rates may be passed as the council considers expedient.

Rating
by-laws

(4) The Ministry may prescribe the form of estimates to be prepared by the council and may, from time to time, vary the same.

Form of
estimates

14.—(1) The assessment of land in a community shall, for the purposes of this Act, be the assessment as determined under *The Assessment Act*.

Assessment

(2) The provisions of *The Assessment Act* apply *mutatis mutandis* to a community.

Application of
R.S.O. 1970,
c. 32

15. The assessment commissioner shall cause to be prepared an assessment roll for each community in the region for which he is the commissioner and in such preparation shall cause to be set down the particulars required under section 17 of *The Assessment Act*, and such

Assessment
roll

roll shall in all other respects be prepared in the same manner as for a municipality.

Rates for general purposes

16.—(1) The council in each year shall levy on the whole assessment for real property, according to the last revised assessment roll, the aggregate amount of the sums necessary for payment within the year of the sums adopted under section 13 for general purposes.

When taxes due

(2) The rates imposed for any year shall be deemed to have been imposed and to be due on and from the 1st day of January of each year, unless otherwise expressly provided by the by-law by which they are imposed.

Instalments

(3) The council may, by by-law, provide for the payment of taxes by instalments.

Penalties and interest

17.—(1) The council may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or any instalment thereof, not exceeding 1 per cent, on the first day of default and on the first day of each calendar month thereafter in which default continues, but not after the end of the year in which the taxes are levied.

Idem

(2) The secretary-treasurer shall add to the amount of all taxes due and unpaid interest at the rate of 1 per cent per month for each month or fraction thereof from the 31st day of December in the year in which the taxes were levied until the taxes are paid.

No compound interest

(3) No interest or percentage added to taxes shall be compounded.

Interest and percentages added form part of taxes

(4) Interest and percentages added to taxes form part of such taxes and shall be collected as taxes.

Who liable for taxes, lien on lands

(5) The taxes due upon any land with costs may be recovered with interest as a debt due to the corporation from the owner or tenant originally assessed therefor and from any subsequent owner of the whole or any part thereof, saving his recourse against any other person, and are a special lien on the land in priority to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and its priority are not lost or impaired by any neglect, omission or error of the corporation or of any agent or officer, or by want of registration.

Notice of forfeiture

18.—(1) Where any part of the tax imposed under this Act remains unpaid for a period of three years or more, the council shall cause to be filed in the proper land registry office a caution in the prescribed form, and there-

upon the secretary-treasurer shall send by registered mail a notice to every person appearing from search or inquiry at the proper land registry office or sheriff's office to be the owner of the land in respect of which the default has been made, and to every person appearing from such search or inquiry to have an interest therein, stating that, unless the total amount of tax and penalties due and payable under this Act and the prescribed costs are paid within twelve months of the mailing of the notice, the land and every interest therein will be liable to be forfeited to and to be vested in the Crown as represented by the Minister of Natural Resources.

(2) Where no letters patent from the Crown have issued ^{Idem} granting land in respect of which the tax imposed under this Act remains unpaid for a period of two years or more, the secretary-treasurer shall send by registered mail the notice mentioned in subsection 1 to the person shown on the assessment roll prepared under section 15 as the owner of the land, and the sending of such notice shall be deemed to be in compliance with subsection 1.

(3) Where any part of the tax, penalties and costs ^{Declaration of forfeiture} remains unpaid twelve months after the mailing of the notice under subsection 1 or 2, the secretary-treasurer shall so certify to the Minister of Natural Resources, and upon receipt of such certificate, the Minister of Natural Resources by a certificate may declare the lands and every interest therein forfeited to and vested in the Crown, and thereupon, subject to subsections 4 and 5, the land and every interest therein vest in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto whether existing, arising or accruing before or after such forfeiture is declared, and the land may be granted, sold, leased or otherwise disposed of in the same manner as public lands may be dealt with under the laws of Ontario.

(4) Where a dominant tenement is forfeited, any easement appurtenant thereto passes to the Crown, and, where a servient tenement is forfeited the forfeiture does not affect any easement to which the servient tenement is subject. ^{Easements}

(5) Upon receipt of a certificate of forfeiture, the land ^{Registration of certificate} registrar shall register it, and it is conclusive evidence of the forfeiture to the Crown of the land and every interest therein so certified to be forfeited, and it is not open to attack in any court by reason of the omission of any act or thing leading up to the forfeiture.

R.S.O. 1970,
cc. 234, 249,
not to apply
to forfeited
lands

(6) Upon registration of a certificate of forfeiture in the proper land registry office, *The Land Titles Act* or *The Registry Act*, as the case may be, ceases to apply to the land forfeited, and the land registrar shall note that fact in his register in red ink.

BORROWING

Current
borrowings

19.—(1) The council may by by-law, either before or after the passing of by-laws for imposing the levies for the current year, authorize the chairman and secretary-treasurer to borrow from time to time by way of promissory note such sums as the council considers necessary to meet, until the levies and other revenues are received, the current expenditures of the corporation for the year, including the amounts required for principal and interest falling due within the year upon any debt of the corporation.

Limit at
any one
time

(2) The amount that may be borrowed at any one time for the purposes mentioned in subsection 1, together with any similar borrowings that have not been repaid, shall not, except with the approval of the Minister, exceed 70 per cent of the uncollected balance of the estimated revenues of the corporation as set forth in the estimates adopted for the year.

Temporary
application
of
estimates
of
preceding
year

(3) Until such estimates are adopted, the limitation upon borrowing prescribed by subsection 2 shall be calculated temporarily upon the estimated revenues of the corporation as set forth in the estimates for the next preceding year, provided that in the first year of operation of the corporation, the amount that may be borrowed at any one time prior to the adoption of the estimates shall be such amount as may be approved by the Minister.

Lender not
bound

(4) The lender is not bound to establish the necessity of the sum lent or to see to its application.

Execution
of
promissory
note

(5) Any promissory note made under the authority of this section shall be sealed with the seal of the corporation, and signed by the chairman or by some other person authorized by by-law to sign it, and by the secretary-treasurer, and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Creation
of
charge

(6) The council may by by-law provide or authorize the chairman and secretary-treasurer to provide by agreement that all or any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole taxable assessment of the community.

POWERS AND DUTIES OF COUNCIL

20.—(1) The provisions of subsections 1 and 2 of section 10, subsection 1 of section 31 and sections 32 and 33 of *The Local Roads Boards Act* apply *mutatis mutandis* to the council. Application of R.S.O. 1970, c. 256

(2) The secretary-treasurer shall remit to the Minister of Transportation and Communications, subject to the approval of the Minister, an amount equal to the amount of tax moneys received by him from the owners of the land within the community attributable to the construction and maintenance of local roads within the community. Remission of portion of tax to Minister of Transportation and Communications

(3) Where the whole or any portion of a local roads area is included within a community established under this Act, the local roads area and the board thereof are dissolved and the Minister of Transportation and Communications may, without petition, exercise any of his powers under section 8 of *The Local Roads Boards Act*. Dissolution of local roads boards

21.—(1) For the purposes of every Act, the council shall have the powers and duties of the council of a township and the community shall be deemed to be a township in respect of the functions specified in Schedule B. Powers of council

(2) Notwithstanding subsection 1, the Minister may, in respect of any community, by order vary the functions to be performed by the council. Powers varied by Minister

(3) For the purposes of sections 57, 58, 59, 60 and 61 of *The Ontario Municipal Board Act*, a community shall be deemed to be a municipality and the approval of the Minister shall be deemed to be the approval of the Ontario Municipal Board under sections 64 and 65 of *The Ontario Municipal Board Act*. Community of municipality under R.S.O. 1970, c. 323

22.—(1) A community shall be deemed to be a municipality for the purposes of section 17 of *The Ontario Water Resources Act*. Application of R.S.O. 1970, c. 332, s. 17

(2) A council shall be deemed to be the council of a municipality for the purposes of *The Municipal Conflict of Interest Act, 1972*. Application of 1972, c. 142

(3) A community shall be deemed to be a lower tier municipality for the purposes of *The Property Tax Stabilization Act, 1973* and a municipality for the purposes of *The Municipal Unconditional Grants Act*. Application of 1973, c. 73 R.S.O. 1970, c. 293

Application
of
R.S.O. 1970,
c. 284

23. The provisions of Part III, except section 45 of *The Municipal Act* apply *mutatis mutandis* to the council.

Regulations

24. The Minister may make regulations prescribing forms for the purposes of this Act and providing for their use.

Conditional
powers

25. The Lieutenant Governor in Council may by order, on the recommendation of the Minister, do all such acts or things that may be necessary to carry out the purposes of this Act, including the application of any Act to a council or a community.

Organiza-
tional
expendi-
tures

26. The organizational expenditures of a council for a period not exceeding one year following the date of establishment of the community may, as approved by the Minister, be paid out of the Consolidated Revenue Fund.

Commencement

27. This Act comes into force on the day it receives Royal Assent.

Short title

28. This Act may be cited as *The Northern Communities Act, 1974*.

SCHEDULE A

By-law in Force in every Community

1. The proceedings of the council and the conduct of the members shall, subject to the provisions of this Act, be governed by the provisions, rules and regulations contained in this by-law. Proceedings of by-law to apply
2. The chairman shall, at the first meeting of the council following a regular election, be elected in the manner determined by council and where a vote is taken and an equality of votes occurs, the tie shall be broken and the successful candidate determined by lot conducted by the secretary-treasurer or by the member presiding at the meeting. Manner of electing chairman
3. If at such meeting for any reason a chairman is not elected, the secretary-treasurer or presiding member may adjourn the meeting from time to time and, if a chairman is not elected within one week after such first meeting, the Minister shall appoint the chairman to hold office for that year and until his successor is elected, in accordance with section 2 in the year next following. Idem
4. As soon after the hour fixed for the holding of a meeting of the council as a quorum is present, the chairman shall take the chair and call the meeting to order. Calling of meeting to order
5. Where the chairman does not attend within fifteen minutes after the time appointed for a meeting of the council, the secretary-treasurer shall call the members to order and an acting chairman shall be appointed from among the members present. Absence of chairman
6. If no quorum is present, one-half hour after the time appointed for a meeting of the council, the secretary-treasurer shall record the names of members present and the meeting shall stand adjourned. Where no quorum present
7. The routine order of business for the meetings of the council shall be as follows: Order of business
 - (a) minutes of previous meeting;
 - (b) deputations and petitions;
 - (c) communications;
 - (d) presentation of accounts;
 - (e) committee reports;
 - (f) by-laws;
 - (g) unfinished business;
 - (h) notices of motion;
 - (i) new business; and
 - (j) adjournment.
8. All business shall be taken up in the order or routine in which it stands, as shown on the agenda, unless otherwise decided by the concurring vote of the majority of the members of the council. Agenda to be followed unless departure concurred in by majority

Minutes

9. The minutes of the meetings of Council shall record,
 - (a) the place, date and time of the meeting;
 - (b) the names of the presiding officer or officers and notation of the attendance or otherwise of the members;
 - (c) the reading, if requested, correction and adoption of the minutes of prior meetings; and
 - (d) all the other proceedings of the meeting without note or comment.

Duties of
the
chairman

10. It shall be the duty of the chairman or other presiding officer,
 - (a) to open the meeting of council by taking the chair and calling the meeting to order;
 - (b) to announce the business before the council in the order in which it is to be acted upon;
 - (c) to receive and submit in the proper manner, all motions presented by the members of council;
 - (d) to put to vote all questions, which are regularly moved and seconded, or necessarily arise in the course of the proceedings, and to announce the result;
 - (e) to enforce on all occasions, the observance of order and decorum among the members;
 - (f) to authenticate by his signature, when necessary, all by-laws, resolutions and minutes of council;
 - (g) to represent and support the council, declaring the will and implicitly obeying its decisions in all things; and
 - (h) to adjourn the meeting when the business is concluded.

Reading of
by-laws and
proceeding
thereon

11. Every by-law shall,
 - (a) receive three readings prior to it being enacted;
 - (b) not be subject to amendment or debate on its first reading;
 - (c) when enacted by council, be endorsed by the secretary-treasurer as to the date or dates of the several readings thereof;
 - (d) be open to debate and amendment before it is ordered for the third reading;
 - (e) when enacted by council, be numbered and dated and sealed with the seal of the corporation, signed by the chairman and by the secretary-treasurer and be deposited by the secretary-treasurer in his office for safekeeping.

Voting
in
council

12. The manner of voting on any question before council shall be at the discretion of the chairman and may be by voice, show of hand, standing or otherwise, but no vote shall be taken by ballot or by any other method of secret voting and every vote so taken is of no effect.

13. Each member of the council, including the chairman, has one vote ^{Vote} only on any question and any motion on which there is an equality of votes shall be deemed to be lost.
14. Where a council consists of five members, the concurrent votes of at least three of them is necessary to carry any resolution or other measure.
Where a
council
consists
of five
members

SCHEDULE B

1. The provision, maintenance and operation of sewer and water services.
2. The provision of sidewalks.
3. The collection, removal and disposal of garbage and other refuse.
4. The provision, maintenance and operation of fire protection services.
5. The provision, maintenance and operation of street lighting.
6. The provision, maintenance and operation of parks, community centres and programs of recreation.
7. The purposes of *The Municipal Act* with respect to trailers, trailer camps, trailer parks, tourist camps, motels, air harbours and landing grounds.
8. The purposes of Part 1 of *The Dog Licensing and Live Stock and Poultry Protection Act*.

FORM 1

I, do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of to which I have been elected in this community, that I have not received and will not receive any payment or reward, or promise thereof, for the exercise of any partiality or malversation or other undue execution of such office, and that I will disclose any pecuniary interest, direct or indirect as required by and in accordance with *The Municipal Conflict of Interest Act, 1972*, and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

FORM 2

I, having been elected to the office of in the community of
..... do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me at the
of
in the of
this day of
19....



FORM 3

DECLARATION OF APPOINTED OFFICE

I, do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of secretary-treasurer, that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office to which I have been appointed, that I have not received and will not receive any payment or reward, or promise thereof, for the exercise of any partiality or malversation or other undue execution of such office, and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the corporation except that arising out of my office as secretary-treasurer.

An Act to provide for
the Incorporation of Communities
in Territory without
Municipal Organization

1st Reading

June 17th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

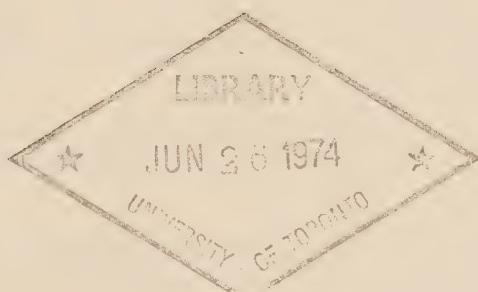
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~~BILL 103~~

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974Legislative Assembly**An Act to amend The Milk Act**THE HON. W. A. STEWART
Minister of Agriculture and Food

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide for the control of the quality of milk by the imposing on and collecting from a producer of penalties where milk supplied by the producer fails to comply with prescribed standards or is produced on premises or with equipment that fails to comply with prescribed standards.

BILL 103**1974**

An Act to amend The Milk Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 18 of *The Milk Act*, being chapter 273 of the ^{s. 18.} ~~amended~~ Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 162, section 7, is further amended by adding thereto the following paragraph:

19a. providing for,

- (a) the control of the quality of milk by the imposing on and collecting from a producer of penalties where any milk supplied by the producer fails to comply with the standards of quality for such milk prescribed by the regulations or is produced on premises or with equipment that fails to comply with the regulations and, without limiting the generality of the foregoing, where such milk,
 - (i) contains any substance prohibited by the regulations,
 - (ii) contains a substance in excess of the amount thereof permitted by the regulations, or
 - (iii) has a substance removed therefrom contrary to the regulations;
- (b) the terms and conditions under which, and the times at which, the penalties are payable;
- (c) the amount of the penalties and the method by which the penalties are calculated;

- (d) the payment of the penalties to the marketing board constituted to administer any plan established for the control and regulation of the marketing of milk under this Act; and
- (e) the use of the penalties by such marketing board for the purposes mentioned in paragraph 19 of subsection 1 of section 8.

Commence-
ment

- 2.** This Act comes into force on the day it receives Royal Assent.

Short title

- 3.** This Act may be cited as *The Milk Amendment Act, 1974* (No. 2).

An Act to amend
The Milk Act

1st Reading

June 17th, 1974

2nd Reading

3rd Reading

THE HON. W. A. STEWART
Minister of Agriculture and Food

(*Government Bill*)

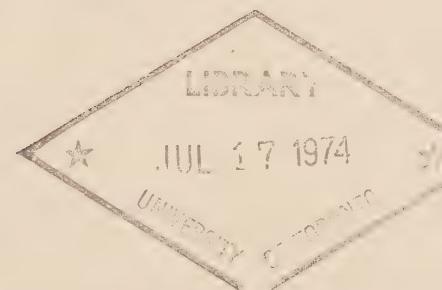
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amended</sup> Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 162, section 7, is further amended by adding thereto the following paragraph:

19a. providing for,

- (a) the control of the quality of milk by the imposing on and collecting from a producer of penalties where any milk supplied by the producer fails to comply with the standards of quality for such milk prescribed by the regulations or is produced on premises or with equipment that fails to comply with the regulations and, without limiting the generality of the foregoing, where such milk,
 - (i) contains any substance prohibited by the regulations,
 - (ii) contains a substance in excess of the amount thereof permitted by the regulations, or
 - (iii) has a substance removed therefrom contrary to the regulations;
- (b) the terms and conditions under which, and the times at which, the penalties are payable;
- (c) the amount of the penalties and the method by which the penalties are calculated;

(d) the payment of the penalties to the marketing board constituted to administer any plan established for the control and regulation of the marketing of milk under this Act; and

(e) the use of the penalties by such marketing board for the purposes mentioned in paragraph 19 of subsection 1 of section 8.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Milk Amendment Act, 1974* (No. 2).

An Act to amend
The Milk Act

1st Reading

June 17th, 1974

2nd Reading

June 25th, 1974

3rd Reading

June 25th, 1974

THE HON. W. A. STEWART
Minister of Agriculture and Food

~~CAZON~~
~~XB~~
-B 56

~~BILL 104~~

Private Member's Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend
The Regional Municipality of Durham Act, 1973

MR. SARGENT



EXPLANATORY NOTE

The purpose of the Bill is to remove the confusion that exists between the Town of Durham and The Regional Municipality of Durham. The name Frost has been chosen in honour of the late Honourable Leslie Frost.

BILL 104**1974**

**An Act to amend
The Regional Municipality of Durham Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The long title to *The Regional Municipality of Durham Act, 1973*, being chapter 78, is repealed and the following substituted therefor:
 "An Act to establish The Regional Municipality of Frost".
2. Section 156 of the said Act is repealed and the following substituted therefor:
 156. This Act may be cited as *The Regional Municipality of Frost Act, 1973*.
3. This Act comes into force on the day it receives Royal Assent.
 Commencement
4. This Act may be cited as *The Regional Municipality of Durham Amendment Act, 1974*.
 Short title

An Act to amend
The Regional Municipality of Durham
Act, 1973

1st Reading

June 17th, 1974

2nd Reading

3rd Reading

MR. SARGENT

(*Private Member's Bill*)

CAZUN
XB
-B 56

Government
Publications

BILL 105

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Legislative Assembly

The Juries Act, 1974

THE HON. R. WELCH
Attorney General



TORONTO
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EXPLANATORY NOTE

The Bill re-enacts *The Jurors Act*. The new Act would,

1. prepare the way to abolishing grand juries;
2. shorten the list of exempted occupations;
3. modernize the procedures for selection and return of jurors, including the deletion of county selectors;
4. consolidate recent amendments.

BILL 105**1974****The Juries Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,Interpre-
tation

- (a) "county" includes a district;
- (b) "county court" includes a district court;
- (c) "Director of Assessment" means the Executive Director of the Assessment Division of the Ministry of Revenue;
- (d) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 230, s. 1; 1973, c. 81, s. 1, *amended*.

ELIGIBILITY**2.** Subject to sections 3 and 4, every person who,Eligible
jurors

- (a) resides in Ontario;
- (b) is a Canadian citizen; and
- (c) in the year preceding the year for which the jury is selected had attained the age of eighteen years or more and had not attained the age of sixty-nine years or more,

is eligible and liable to serve as a juror on juries in the Supreme Court and in all courts of civil or criminal jurisdiction in the county in which he resides. 1973, c. 81, s. 2, *amended*.

3.—(1) The following persons are ineligible to serve as ^{Ineligible}_{occupations} jurors:

1. Every member of the Privy Council of Canada or the Executive Council of Ontario.
2. Every member of the Senate, the House of Commons of Canada or the Assembly.
3. Every judge.
4. Every barrister and solicitor and every student-at-law.
5. Every legally qualified medical practitioner and veterinary surgeon who is actively engaged in practice and every coroner.
6. Every person engaged in the enforcement of law including, without restricting the generality of the foregoing, sheriffs, wardens of any penitentiary, superintendents, jailers or keepers of prisons, correctional institutions or lockups, sheriff's officers and constables, police officers and constables, and officers of a court of justice.
7. The husband or wife of each person mentioned in paragraph 3, 4 or 6.
8. Every ordained minister, priest or clergyman under any form or profession or of any faith or worship, licensed to perform marriages in Ontario.
9. Every person who is a member of a religious order vowed to live in a convent, monastery or other like religious community. R.S.O. 1970, c. 230, s. 3 (1); 1973, c. 81, s. 5.

**Connection
with court
action at
same sittings**

- (2) Every person who is under subpoena or is likely to be called as a witness in a civil or criminal proceeding or has an interest in an action is ineligible to serve as a juror at any sittings of a court at which such proceeding or action might be tried.

**Previous
service**

- (3) Every person who, at any time within three years preceding the year for which the jury roll is prepared, has received fees for service after selection from the roll prepared under this Act or any predecessor thereof. R.S.O. 1970, c. 230, s. 3 (3), *amended*.

**Ineligibility
for personal
reasons**

- 4.** A person is ineligible to serve as a juror who,
 - (a) is infirm, decrepit or afflicted with blindness, deafness or other physical infirmity incompatible with the discharge of the duties of a juror;
 - (b) is not in the possession of his natural faculties; or

- (c) has been convicted of an indictable offence, unless he has subsequently been granted a pardon. 1973, c. 81, s. 4.

PREPARATION OF JURY ROLLS

5.—(1) The sheriff of a county shall on or before the 15th day of September in each year determine for the ensuing year for the county,

- (a) the number of jurors that will be required for each sittings of,

- (i) the Supreme Court,
- (ii) the court of general sessions of the peace in the county, and
- (iii) the county court in the county;

- (b) the number of persons that will be required for selection from the jury roll for the purposes of any other Act; and

- (c) the aggregate number of persons that will be so required.

(2) In a provisional judicial district, after the sheriff has determined the number of persons that will be required for service during the ensuing year, he shall fix the total number of persons, that shall be selected from municipalities, and the total number that shall be selected from territory without municipal organization.

(3) The sheriff shall forthwith upon making his determination under subsection 1 certify and transmit,

- (a) to the Director of Assessment,

- (i) a copy of the determination declaring the aggregate number of persons required for the jury roll in the county in the ensuing year, and

- (ii) a statement of the numbers of jury service notices to be mailed to persons in the county;

- (b) to the office of the Registrar of the Supreme Court, a copy of the determination for the number of jurors under subclause i of clause a of subsection 1; and

(c) to the clerk of the county court in the county, copies of the determinations for the number of jurors under subclauses ii and iii of clause *a* of subsection 1. 1973, c. 81, s. 5, *part, amended.*

Jury service notices

6.—(1) The Director of Assessment shall in each year on or before the 31st day of October cause a jury service notice, together with a return to the jury service notice in the form prescribed by the regulations and a prepaid return envelope addressed to the sheriff of the county, to be mailed by first class mail to the number of persons in each county specified by the sheriff in his statement, and selected in the manner provided for in this section.

Selection of persons notified

(2) The persons to whom jury service notices are mailed under this section shall be selected by the Director of Assessment at random from persons who, from information obtained at the most recent census of the inhabitants of the county under section 23 of *The Assessment Act*,

R.S.O. 1970, c. 32

- (a) at the time of the census, resided in the county and were Canadian citizens; and
- (b) in the year preceding the year for which the jury is selected, are of or will attain the age of eighteen years or more and are not of and will not attain the age of sixty-nine years or more,

and the number of persons selected from each municipality in the county shall bear approximately the same proportion to the total number selected for the county as the total number of persons eligible for selection in the municipality bears to the total number eligible for selection in the county, as determined by such census.

Application of subs. 2 to municipalities in districts

(3) In a provisional judicial district for the purposes of subsection 2, all the municipalities in the district shall together be treated in the same manner as a county from which the number of jurors required is the number fixed under subsection 2 of section 5 to be selected from municipalities.

Address for mailing

(4) The jury service notice to a person under this section shall be mailed to him at the address shown for him in the most recent census of the inhabitants of the county under section 23 of *The Assessment Act*.

Return to jury service notice

(5) Every person to whom a jury service notice is mailed in accordance with this section shall accurately and truthfully complete the return and shall mail it to the sheriff of the county within five days after receipt thereof.

(6) For the purposes of subsection 5, the notice shall be ^{When service deemed made} deemed to have been received on the third day after the day of mailing unless the person to whom the notice is mailed establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control did not receive the notice or order, or did not receive the notice or order until a later date.

(7) The Director of Assessment shall furnish to the sheriff ^{List of notices given} of the county a list of persons in the county arranged alphabetically to whom jury service notices were mailed under this section forthwith after such mailing and the list received by the sheriff purporting to be certified by the Director of Assessment is, without proof of the office or signature of the Director of Assessment, receivable in evidence in any action or proceeding as *prima facie* proof of the mailing of jury service notices to the persons shown on the list.

(8) In the selecting of persons for entry in the jury roll ^{Indian reserves} in a county or district in which an Indian reserve is situate, the sheriff shall select names of eligible persons inhabiting the reserve in the same manner as if the reserve were a municipality and, for the purpose, the sheriff may obtain the names of inhabitants of the reserve from any record available.
1973, c. 81, s. 5, *part, amended.*

7. The sheriff shall in each year prepare a roll called ^{Sheriff to prepare} the jury roll in the form prescribed by the regulations. 1973, ^{Jury roll} c. 81, s. 5, *part, amended.*

8.—(1) The sheriff shall open the returns to jury service ^{Entry of names in jury roll} notices received by him and shall cause the name, address, age and occupation of each person making such a return, who is shown by the return to be eligible for jury service, to be entered in the jury roll alphabetically arranged and numbered consecutively.

(2) The sheriff may, with the written approval of the local ^{Omission of names} judge of the High Court, omit the name from the roll where it appears such person will be unable to attend for jury duty.

(3) The sheriff may request the Director of Assessment ^{Supplementary names} to mail such number of additional jury service notices and forms of returns to jury service notice as in the opinion of the sheriff are required.

(4) Upon receipt of a request from the sheriff under sub-^{Supplying of supplementary names} section 3, the Director of Assessment shall forthwith carry out such request and for such purpose section 6 applies *mutatis mutandis*.

mutandis with respect to the additional jury service notices requested by the sheriff to be mailed. 1973, c. 81, s. 5, *part, amended.*

Selection from unorganized territory

(5) In a provisional judicial district, the sheriff shall select names of eligible persons who reside in the district outside territory with municipal organization in the numbers fixed under subsection 2 of section 5 and for the purpose may have recourse to the latest polling list prepared and certified for such territory, and to any assessment or collector's roll prepared for school purposes and may obtain names from any other record available. 1973, c. 81, s. 7, *part, amended.*

Certification of roll

9. As soon as he has completed the jury roll but not later than the 31st day of December in each year, the sheriff shall certify the roll to be the proper roll prepared as the law directs and shall deliver notice of the certification to the local judge of the High Court, but the judge may extend the time for delivery for such reasons as he considers sufficient. 1973, c. 81, s. 5, *part, amended.*

Extension of times

10. The Chief Justice of the High Court may, upon the request of the sheriff of a county, extend any times prescribed by this Act in connection with the preparation of the jury roll for the county to such date as he considers appropriate and may authorize the continued use of the latest jury roll until the dates so fixed. 1973, c. 81, s. 5, *part, amended.*

Additions to roll by sheriff

11.—(1) Where there are no persons or not a sufficient number of persons on the proper jury roll, or where there is no jury roll for the year in existence, the sheriff may supply names of eligible jurors from the jury roll for the nearest preceding year for which there is a jury roll or certified copy thereof in existence.

Certification of additions by sheriff

(2) The names supplied to the jury roll under this section shall be entered thereon and certified by the sheriff. R.S.O. 1970, c. 230, s. 43, *amended.*

JURY PANELS

Issuance of precepts

12.—(1) The judges of the Supreme Court, or one or more of them, for the holding of any sittings of the Supreme Court, and the judge of the county court, for the holding of any sittings of the county court or of the court of general sessions of the peace, may respectively issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in their or his opinion is required. R.S.O. 1970, c. 230, s. 45 (1), *amended.*

(2) The proper officer in the office of the Registrar of the Supreme Court at Toronto, shall procure the precepts for the return of panels of jurors required for the sittings of the Supreme Court, and transmit them to the sheriffs as soon as conveniently may be after the day has been appointed for the sittings for which the jurors are required. R.S.O. 1970, c. 230, s. 50.

13.—(1) Where a judge of the Supreme Court considers it necessary that the jurors to form the panel for a sitting of the Supreme Court be summoned in more than one set, he may direct the sheriff to return such number of jurors in such number of sets on such day for each set as he thinks fit. R.S.O. 1970, c. 230, s. 52 (1), *amended*.

(2) The sheriff shall divide such jurors into as many sets as are directed, and shall in the summons to every juror specify at what time his attendance will be required.

(3) Each set shall for all purposes be deemed a separate panel. R.S.O. 1970, c. 230, s. 52 (2, 3).

14.—(1) The judge of the county court, if after the issue of the precept it appears to him expedient, may at any time before the day appointed for the sittings of the Supreme Court, by order under his hand and seal, and the judge assigned to hold the sittings or the presiding judge may, at any time before or during the sittings of such court, by order under his hand and seal, direct the sheriff to return an additional number of jurors.

(2) The judge of the county court, after the issue of the precept, at any time before or during the sittings of the county court or court of general sessions of the peace, by order under his hand and seal, may direct the sheriff to return an additional number of jurors.

(3) The sheriff, upon the receipt of any such order, shall forthwith draft such additional number of jurors in the manner provided by this Act, and shall add their names to the panel list, and shall forthwith thereafter summon them, and where there are not a sufficient number of jurors on the jury roll for the purpose of the additions, section 11 applies. R.S.O. 1970, c. 230, s. 48, *amended*.

15. Where the same day is appointed for holding the court of general sessions of the peace and the sittings of the county court, the sheriff may return the same panel to the precepts for the panels of jurors. R.S.O. 1970, c. 230, s. 51.

How sheriffs
to draft
panels of
jurors

16. Every sheriff to whom a precept for the return of jurors is directed shall, to such precept, return a panel list of the names of the jurors contained in the jury roll, whose names shall be drafted from such roll in the manner hereinafter mentioned. R.S.O. 1970, c. 230, s. 56.

Sheriff to
draft panel

17. Upon receipt of the precept, the sheriff shall post up in his office written notice of the day, hour and place at which he will draft the panel of jurors, and he shall draft the panel by ballot from the jury roll in the presence of a justice of the peace who shall attend upon reasonable notice from the sheriff. R.S.O. 1970, c. 230, s. 59 (1), *amended*.

How sheriff
to prepare a
panel

18.—(1) Before proceeding to draft a panel of jurors from a jury roll, the sheriff shall prepare a proper title or heading for the list of jurors to be returned, to which he shall fix an appropriate number according as such panel is the first, second, third or subsequent panel drafted from such jury roll, and the title or heading shall set forth the number of jurors to be returned.

Ballots for
drafting
panel

(2) The sheriff shall then append to such title or heading a list of numbers from "1" forward to the number required, and shall prepare a set of ballots of uniform and convenient size containing the same number of ballots as there are numbers on the jury roll, allowing one number to each ballot, which number shall be printed or written on it, and he shall then proceed to draft the panel of jurors. R.S.O. 1970, c. 230, s. 62.

Drafting
of panel

19.—(1) The sheriff shall draft the panel by drawing at random the ballots from a container in the presence of the justice of the peace.

Panel
list

(2) The names of the persons so drafted, arranged alphabetically, with their places of residence and occupations shall then be transcribed by the sheriff, with a reference to the number of each name on the jury roll, and each name shall be thereupon marked by him or by his deputy upon the jury roll, but the name of a person shall not be included on the panel list where the spouse of such person is on the list.

Idem

(3) The panel list so alphabetically arranged and numbered, with a short statement of the precept in obedience to which it has been drafted, the date and place of such drafting, and the names of the sheriff, or his deputy and the justice of the peace, present at such drafting, shall then be recorded and attested by the signatures of the sheriff, or his deputy and the justice of the peace, and such panel list shall

be retained in the custody of the sheriff. R.S.O. 1970, c. 230, s. 63, *amended*.

20. The sheriff shall, upon his return to the precept, annex thereto the panel list containing the names, and places of residence, and occupations of the persons so drafted, and shall transmit one copy thereof to the office of the Registrar of the Supreme Court at Toronto, or to the local registrar, or to the clerk of the county court, as the case may be. R.S.O. 1970, c. 230, s. 64, *amended*. Copies of panel to be transmitted

21.—(1) The sheriff shall summon every person drafted to serve on juries, by sending to him by registered mail a notice in writing in the form prescribed by the regulations under the hand of the sheriff, at least twenty-one days before the day upon which the person is to attend, but when the sheriff is directed to draft and summon additional jurors under this Act, such twenty-one days service is not necessary. R.S.O. 1970, c. 230, s. 66 (1), *amended*. Jurors to be summoned 21 days before attendance required

(2) The sheriff may excuse any person summoned for a jury sittings on the grounds of illness or hardship but unless the local judge of the High Court directs otherwise and notwithstanding any other provision of this Act, such person shall be included in a panel to be returned for a sittings later in the year or, where there are no further sittings in that year, in a panel to be returned for a sittings in the year next following. *New*. Excusing of juror

22. The jury roll and every list containing the names of the jury drafted for any panel shall be kept under lock and key by the sheriff and every officer mentioned in section 20 having a copy thereof, and except in so far as may be necessary in order to prepare the panel lists, and serve the jury summons, shall not be disclosed by the sheriff, his deputy, officer, clerk, or by any officer mentioned in section 17 or 20, or by any other person, until ten days before the sittings of the court for which the panel has been drafted, and during such period of ten days, the sheriff, or his deputy, and any officer mentioned in section 20 having a copy of the panel list shall permit the inspection at all reasonable hours of the jury roll and of the panel list or copy thereof in his custody by litigants or accused persons or their solicitors and shall furnish the litigants or accused persons or their solicitors, upon request and payment of a fee of \$2, with a copy of any such panel list. R.S.O. 1970, c. 230, s. 65, *amended*. Secrecy of jury roll and panel

23.—(1) Where there is no business requiring the attendance of a jury at a sittings of a court in respect of which a precept has been issued, Countermand where no jury cases

- (a) the clerk of the court or local registrar, as the case may be, where the sittings is for the trial of actions; or
- (b) the Crown attorney where the sittings is for the trial of criminal prosecutions,

shall, at least five clear days before the day upon which the sittings is to commence, give notice in writing to the sheriff in the form prescribed by the regulations that the attendance of the jurors is not required. R.S.O. 1970, c. 230, s. 66 (3, 4), *amended*.

**Postpone-
ment of date
for
attendance
of jurors**

(2) Where the business of the court does not require the attendance of the jurors until a day after the day upon which the sittings is to commence, the appropriate officer determined under subsection 1 shall, at least five clear days before the day upon which the sittings is to commence, give notice in writing to the sheriff in the form prescribed by the regulations that the attendance of the jurors is not required until such later day as is specified in the notice. R.S.O. 1970, c. 230, s. 47 (1), *amended*.

**Notice to
be given
to juror**

(3) Subject to subsection 5, the sheriff, upon receipt of such notice, shall forthwith by registered mail or otherwise, as he considers expedient, notify in the form prescribed by the regulations each person summoned to serve as a juror that his attendance at the sittings is not required or is not required until the day specified in the notice, and in case any person so summoned attends after receiving such notice or before the day specified, as the case may be, he is not entitled to any fees or mileage for attendance.

**Where juror
attends
owing to
non-receipt
of notice**

(4) Where, after the giving of such notice, a juror so summoned attends the sittings contrary to the notice and the sheriff is satisfied that the notice was not received prior to the attendance and that the juror attended in good faith, believing his attendance on that day to be necessary, the sheriff shall allow the juror his fees and mileage allowance. R.S.O. 1970, c. 230, s. 66 (5, 6), *amended*.

**Sheriff must
ascertain
that there
are no
prisoners
in custody**

(5) In the case of a sittings of the Supreme Court for the trial of criminal matters and proceedings, or in the case of a sittings of the court of general sessions of the peace, the sheriff shall not give the notice mentioned in subsection 3 unless he is satisfied that there is no prisoner in custody awaiting trial at the sittings. R.S.O. 1970, c. 230, s. 66 (8).

**Division of
Supreme
Court panel**

24.—(1) Where a judge of the Supreme Court considers it necessary, he may direct that the jurors summoned for a

sitting of the Supreme Court be divided into two or more sets as he may direct, and each set shall for all purposes be deemed a separate panel.

(2) Where the judge of a county court considers it necessary, <sup>Division of
county court
panel</sup> he may direct that the jurors summoned for jury sittings of the county court or the court of general sessions of the peace, or both, be divided into two or more sets as he may direct, and each set shall for all purposes be deemed a separate panel. 1972, c. 112, s. 6.

25. A juror summoned for jury duty may be excused <sup>Excusing
of juror</sup> from attending the sittings on the grounds of illness or hardship,

- (a) before the day for attendance, by the local judge of the High Court;
- (b) on or after the day for attendance, by the judge presiding at the sittings,

and the judge may direct that the service of a person so excused be postponed and that notwithstanding any provision of this Act, he be included in a panel to be returned for a sittings later in the year or in a panel to be returned for a sittings in the year next following. 1973, c. 81, s. 8, *amended*.

26.—(1) Any number of jurors summoned for a jury sittings <sup>Release
of jurors
by judge</sup> of the Supreme Court or of the county court or court of general sessions of the peace may, until resummoned by direction of a judge, be released from service or further service, as the case may be, at any time before the sittings by the local judge of the High Court. R.S.O. 1970, c. 230, s. 49 (1), *amended*.

(2) The judge presiding at the sittings may release such <sup>Release
of jurors
during
sittings</sup> jurors as, in his opinion, will not be immediately required, and the release may be for the remainder of the sittings or until the judge directs that they be summoned to reattend. R.S.O. 1970, c. 230, s. 49 (4).

(3) Where jurors have been released under this section, ^{Panel} the remaining jurors constitute the panel and where released jurors are resummoned under this section they are added to the panel. R.S.O. 1970, c. 230, s. 49 (5), *amended*.

(4) Where jurors are released under this section, they are ^{Fees} not entitled to receive the fees provided by this Act during the period of release. R.S.O. 1970, c. 230, s. 49 (6).

The Supreme Court may issue precepts as heretofore

27. Subject to this Act, the Supreme Court and the judges thereof have the same power and authority as heretofore in issuing any precept, or in making any award or order, orally or otherwise, for the return of a jury for the trial of any issue before the court, or for amending or enlarging the panel of jurors returned for the trial of any such issue, and the return to any precept, award or order shall be made in the manner heretofore used and accustomed, and the jurors shall, as heretofore, be returned from the body of the county, and shall be eligible according to this Act. R.S.O. 1970, c. 230, s. 53.

County courts

28. The provisions of this Act respecting the issue of precepts for the return of a general panel of jurors for the sittings of the Supreme Court, as well as for the execution and return of the precepts, with all things touching the same, shall be observed and followed in all particulars with respect to the sittings of courts of general sessions of the peace and of county courts. R.S.O. 1970, c. 230, s. 55, *amended*.

ACTIONS TRIED BY JURY

When actions to be entered for trial

29. Subject, in the case of an action in the Supreme Court, to any order made by a judge of that court, and in the case of an action in the county court, to any order made by a judge of the county court, actions to be tried by a jury, whether in the Supreme Court or the county court, shall be entered for trial not later than six clear days before the first day of the sittings. R.S.O. 1970, c. 230, s. 66 (2), *amended*.

DRAWING JURY AT TRIAL

Empanelling jury at the trial

30.—(1) The name of every person summoned to attend as a juror, with his place of residence, occupation, and number on the panel list shall be written distinctly by the sheriff on a card or paper, as nearly as may be of the form and size following, viz.:

15. DAVID BOOTH

OF LOT NO. 11, IN THE 7TH CON. OF ALBION
MERCHANT

and the names so written shall, under the direction of the sheriff, be put together in a container to be provided by him for that purpose, and he shall deliver it to the clerk of the court. R.S.O. 1970, c. 230, s. 70.

How the clerk is to proceed to draw names

(2) Where an issue is brought on to be tried, or damages are to be assessed by a jury, the clerk shall, in open court, cause the container to be shaken so as sufficiently to mix the names, and shall then draw out six of the cards or papers, one after another, causing the container to be shaken after the drawing

of each name, and if any juror whose name is so drawn does not appear or is challenged and set aside, then such further number until six jurors are drawn, who do appear, and who, after all just causes of challenge allowed, remain as fair and indifferent, and the first six jurors so drawn, appearing and approved as indifferent, their names being noted in the minute book of the clerk of the court, shall be sworn, and shall be the jury to try the issue or to assess the damages.

(3) The cards or papers containing the names of persons so drawn and sworn shall be kept apart until the jury has given in its verdict, and it has been recorded, or until the jury has been by consent of the parties, or by leave of the court, discharged, and shall then be returned to the container there to be kept with the other cards or papers remaining therein. R.S.O. 1970, c. 230, s. 71.

31. A jury may be selected in accordance with section 30 at any time before the trial of an issue or assessment of damages directed by the judge presiding at the sittings and shall attend for service upon the summons of the sheriff. R.S.O. 1970, c. 230, s. 72.

32. Notwithstanding sections 30 and 31, where no objection is made by a party, the court may try any issue or assess damages with the jury previously drawn to try any other issue, or to assess damages, without the cards or papers containing their names being returned to the container and redrawn, or may order any of the jurors whom both parties consent to withdraw, or who may be justly challenged or excused by the court, to retire and may cause another name or other names to be drawn from the container, and shall try the issue or assess the damages with the residue of the original jury and the new jurors who appear and are approved as indifferent. R.S.O. 1970, c. 230, s. 73.

33.—(1) Where a full jury does not appear at a sittings of a court for civil matters, or where, after the appearance of a full jury, by challenge of any of the parties, the jury is likely to remain untaken for default of jurors, the court may command the sheriff to name and appoint so many of such other able persons of the county then present, or who can be found, as will make up a full jury, and the sheriff shall return such persons to serve on the jury.

(2) Where a full jury does not appear, the names of the persons so returned shall be added to the panel returned upon the precept. R.S.O. 1970, c. 230, s. 74.

34. The presiding judge before whom a civil case is or may be heard may in his discretion on an application made by or on

behalf of the parties or any of them or at his own instance, make an order for the jury to be composed of men only or of women only, as the case may require. R.S.O. 1970, c. 230, s. 75, *amended*.

The sheriff
to note on
rolls names
of jurors
who do not
serve

35. Immediately after the sittings of the Supreme Court and of the court of general sessions of the peace, and of the county court, the sheriff shall note on the jury roll from which the panel of jurors returned to the sittings was drafted opposite the names of the jurors, the non-attendance or default of every juror who has not attended until discharged by the court. 1973, c. 81, s. 10, *part*.

CHALLENGES

Lack of
eligibility

36. If a person not eligible is drawn as a juror for the trial of an issue in any matter or proceeding, the want of eligibility is a good cause for challenge. 1973, c. 81, s. 10, *part*.

Peremptory
challenges in
civil cases

37. In any cause, the plaintiff or plaintiffs, on one side, and the defendant or defendants, on the other, may challenge peremptorily any four of the jurors drawn to serve on the trial, and such right of challenge extends to the Crown when a party. R.S.O. 1970, c. 230, s. 78.

Ratepayers,
officers, etc.,
of municip-
ality
may be
challenged

38. In a matter or proceeding to which a municipal corporation, other than a county, is a party, every ratepayer, and every officer or servant of the corporation is, for that reason, liable to challenge as a juror. R.S.O. 1970, c. 230, s. 79.

GENERAL

Fees payable
to jurors,
selectors,
etc.

R.S.O. 1970,
c. 6

39.—(1) Such fees and allowances as are prescribed under *The Administration of Justice Act* shall be paid to,

(a) every juror attending a sitting of the Supreme Court or of the court of general sessions of the peace or of the county court; and

(b) the justice of the peace in attendance for each panel drafted under section 17. 1971, c. 9, s. 5; 1973, c. 81, s. 12, *amended*.

Sums to be
paid with
record when
entered for
trial in jury
cases

(2) With every record entered for trial of issues or assessment of damages by a jury in the Supreme Court there shall be paid to the Registrar or the local registrar of the Supreme Court, as the case may be, such sum as is prescribed under *The Administration of Justice Act*, and the record shall not be entered unless such sum is first paid. R.S.O. 1970, c. 230, s. 87.

40.—(1) The clerk of the court or the sheriff or his officer shall, at the opening of the court and before any other business is proceeded with, call the names of the jurors, and the sheriff or his officer shall record those who are present or absent. R.S.O. 1970, c. 230, s. 85, *amended*. List of jurors to be called

(2) The sheriff shall keep a record of the payment of fees to jurors for attending sittings of a court. Record of fees paid *New.*

(3) A juror not appearing when called is not entitled to pay for the day on which he makes default. R.S.O. 1970, c. 230, Jurors not attending not to be paid s. 86.

41. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing any form required or permitted by this Act to be prescribed by the regulations;
- (b) prescribing the manner of keeping jury rolls and lists of jury panels and records thereof and requiring and prescribing the form of the certification or authentication of entries therein. *New.*

42.—(1) Every person who,

Offences

- (a) wilfully makes or causes to be made any alteration in any roll or panel or in any certified copy thereof except in accordance with this Act;
- (b) falsely certifies any roll or panel; or
- (c) influences or attempts to influence the selection of persons for inclusion in or omission from any jury roll or panel, except in a proper procedure under this Act,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both. R.S.O. 1970, c. 230, s. 92, *amended*.

(2) Every sheriff or clerk of the peace, or clerk or registrar of a court who refuses to perform any duty imposed on him by this Act, is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000. R.S.O. 1970, c. 230, s. 93, *amended*. Idem

(3) Every person who is required to complete a return to a jury service notice and who,

- (a) without reasonable excuse fails to complete the return or mail it to the sheriff as required by subsection 7 of section 6; or
- (b) knowingly gives false or misleading information in the return,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. 1973, c. 81, s. 14.

Evidence of
not mailing

(4) For the purposes of subsection 3, where the sheriff fails to receive a return to a jury service notice within five days from the date on which it was required by this Act to be mailed, such failure is *prima facie* proof that the person required to mail it to the sheriff failed to do so in the time required.

Certificate
as evidence

(5) A statement as to the receipt or non-receipt of a return to a jury service notice purporting to be certified by the sheriff is, without proof of the appointment or signature of the sheriff, receivable in evidence as *prima facie* proof of the facts stated therein in any prosecution under subsection 3. *New.*

Contempt
of court

43. Every person is in contempt of court who, without reasonable excuse,

- (a) having been duly summoned to attend on a jury, does not attend in pursuance of the summons, or being there called does not answer to his name; or
- (b) being a juror or talesman, after having been called, is present but does not appear, or after his appearance wilfully withdraws himself from the presence of the court; or
- (c) being a sheriff, wilfully empanels and returns to serve on a jury a person whose name has not been duly drawn upon the panel in the manner prescribed in this Act; or
- (d) being a registrar, clerk of the peace, or other officer wilfully records the appearance of a person so summoned and returned who has not actually appeared. R.S.O. 1970, c. 230, ss. 89, 91, *amended.*

Idem,
tampering
with jurors

44.—(1) Every person is in contempt of court who, being interested in an action that is or is to be entered for trial or may be tried in the court, or being the solicitor, counsel,

agent or emissary of such person, before or during the sittings or at any time after a juror on the jury panel for such court, has been summoned knowingly, directly or indirectly, speaks to or consults with the juror respecting such action or any matter or thing relating thereto. R.S.O. 1970, c. 230, s. 95 (1), *amended*.

(2) Where a solicitor or barrister or student at law or articled clerk is guilty of such offence he may, in addition to any other penalty, be struck from the roll of solicitors or be disbarred or suspended from the practice of his profession for a limited time or his name may be erased from the list of the Law Society or removed therefrom for a limited time by the Supreme Court upon motion at the instance and in the name of the Attorney General.

(3) This section does not apply where a juror is also a party to or a known witness or interested in the action or is otherwise ineligible as a juror in the action, nor to anything that may properly take place in the course of the trial or conduct of the action. R.S.O. 1970, c. 230, s. 95 (2, 3).

45. The sheriff shall at the sittings of the Supreme Court or county court for trials by jury and the court of general sessions of the peace post up in the court room and jury rooms and in the general entrance hall of the court house, printed copies in conspicuous type of subsections 2 and 3 of section 127 of the *Criminal Code* (Canada) and subsection 1 of section 44 of this Act. R.S.O. 1970, c. 230, s. 96.

46. Nothing in this Act alters, abridges or affects any power or authority that any court or judge has, or any practice or form in regard to trials by jury, juries or jurors, except in those cases only where such power or authority, practice or form is repealed or altered, or is inconsistent with any of the provisions of this Act. R.S.O. 1970, c. 230, s. 97.

47.—(1) The omission to observe any of the provisions of this Act respecting the eligibility, selection, balloting and distribution of jurors, the preparation of the jury roll or the drafting of panels from the jury roll is not a ground for impeaching or quashing a verdict or judgment in any action. R.S.O. 1970, c. 230, s. 81, *amended*.

(2) Subject to sections 36 and 38, a jury panel returned by the sheriff for the purposes of this Act shall be deemed to be properly selected for the purposes of the service of the jurors in any matter or proceeding. 1973, c. 81, s. 11.

48.—(1) The judges of the Supreme Court, or one or more of them, for the holding of any sittings of the Supreme Court,

Barrister,
solicitor or
student
be disbarred
or
suspended

Exception
where juror
is a party
or witness

Posting up
copies of
s. 127 (2, 3) of
Criminal Code

R.S.C. 1970,
c. C-34

Saving of
former
powers of
court and
judges
except as
altered

Omissions to
observe this
Act not to
vitiate the
verdict

Panel
deemed
properly
selected

Judges to
issue
precepts to
the sheriffs

and the judge of the county court, for the holding of any sittings of the county court or of the court of general sessions of the peace, may issue precepts to the sheriff for the return of a proper number of grand jurors for such sittings.

Number of
grand jurors

(2) The precepts for the return of grand jurors shall command the return, and the panel shall consist of seven grand jurors.

Cancellation
of
precept for
grand jury

(3) Where, after the issue of a precept for the return of grand jurors, the Crown attorney informs a judge authorized under subsection 1 to issue the precept that there are no criminal prosecutions at the sittings for which the precept was issued, the judge may,

(a) cancel the precept; or

(b) if summonses have been served on the persons drafted to serve on the grand jury, direct the sheriff to notify each person so summoned, in the manner prescribed by subsection 3 of section 23. R.S.O. 1970, c. 230, s. 45, *amended*.

Inspection
of
institutions

49.—(1) The judge presiding at a jury sittings of the Supreme Court and at a sittings of the court of general sessions of the peace shall instruct the grand jury that it may inspect all or any of the institutions in the county or district and lockups established for the county or district that are maintained in whole or in part by public moneys, and every grand jury that makes such an inspection shall prepare a report or presentment indicating the conditions found to be existing in each of the institutions inspected, but where such an inspection has been conducted within six months prior to the date of the commencement of such sittings, no inspection shall be made without the specific consent of the judge. R.S.O. 1970, c. 230, s. 46 (1); 1972, c. 112, s. 5.

Amount of
time to be
spent in
inspection

(2) The time that may be devoted by a grand jury to the inspection of institutions is subject to the control and direction of the presiding judge. R.S.O. 1970, c. 230, s. 46 (2).

R.S.O. 1970,
c. 230,
repealed

50.—(1) *The Jurors Act*, being chapter 230 of the Revised Statutes of Ontario, 1970, is repealed.

1971, c. 9,
repealed

(2) *The Jurors Amendment Act, 1971*, being chapter 9, is repealed.

1971, c. 98,
Sched. par. 16
repealed

(3) Paragraph 16 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98, as amended by the Statutes of Ontario, 1972, chapter 112, section 2 and 1973, chapter 81, section 7, is repealed.

(4) *The Jurors Amendment Act, 1972*, being chapter 112,^{1972, c. 112,} repealed is repealed.

(5) *The Jurors Amendment Act, 1972 (No. 2)*, being chapter 170,^{1972, c. 170,} repealed is repealed.

(6) *The Jurors Amendment Act, 1973*, being chapter 81, is^{1973, c. 81,} repealed.

51. Sections 48 and 49 are repealed on a day to be named^{Repeal of ss. 48, 49} by proclamation of the Lieutenant Governor.

52. This Act comes into force on the day it receives Royal^{Commencement} Assent.

53. This Act may be cited as *The Juries Act, 1974*.Short title

The Juries Act, 1974

1st Reading

June 18th, 1974

2nd Reading

3rd Reading

THE HON. R. WELCH
Attorney General

(*Government Bill*)

CAZON

BILL 105

XB

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Juries Act, 1974

THE HON. R. WELCH
Attorney General



TORONTO

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BILL 105**1974****The Juries Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,Interpre-
tation

- (a) "county" includes a district;
- (b) "county court" includes a district court;
- (c) "Director of Assessment" means the Executive Director of the Assessment Division of the Ministry of Revenue;
- (d) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 230, s. 1; 1973, c. 81, s. 1, *amended*.

ELIGIBILITY**2.** Subject to sections 3 and 4, every person who,Eligible
jurors

- (a) resides in Ontario;
- (b) is a Canadian citizen; and
- (c) in the year preceding the year for which the jury is selected had attained the age of eighteen years or more and had not attained the age of sixty-nine years or more,

is eligible and liable to serve as a juror on juries in the Supreme Court and in all courts of civil or criminal jurisdiction in the county in which he resides. 1973, c. 81, s. 2, *amended*.

3.—(1) The following persons are ineligible to serve as <sup>Ineligible
occupations</sup> jurors:

1. Every member of the Privy Council of Canada or the Executive Council of Ontario.
2. Every member of the Senate, the House of Commons of Canada or the Assembly.
3. Every judge.
4. Every barrister and solicitor and every student-at-law.
5. Every legally qualified medical practitioner and veterinary surgeon who is actively engaged in practice and every coroner.
6. Every person engaged in the enforcement of law including, without restricting the generality of the foregoing, sheriffs, wardens of any penitentiary, superintendents, jailers or keepers of prisons, correctional institutions or lockups, sheriff's officers and constables, police officers and constables, and officers of a court of justice.
7. The husband or wife of each person mentioned in paragraph 3, 4 or 6.
8. Every ordained minister, priest or clergyman under any form or profession or of any faith or worship, licensed to perform marriages in Ontario.
9. Every person who is a member of a religious order vowed to live in a convent, monastery or other like religious community. R.S.O. 1970, c. 230, s. 3 (1); 1973, c. 81, s. 5.

**Connection
with court
action at
same sittings**

(2) Every person who is under subpoena or is likely to be called as a witness in a civil or criminal proceeding or has an interest in an action is ineligible to serve as a juror at any sittings of a court at which such proceeding or action might be tried.

**Previous
service**

(3) Every person who, at any time within three years preceding the year for which the jury roll is prepared, has received fees for service after selection from the roll prepared under this Act or any predecessor thereof. R.S.O. 1970, c. 230, s. 3 (3), *amended*.

**Ineligibility
for personal
reasons**

- 4.** A person is ineligible to serve as a juror who,
 - (a) is infirm, decrepit or afflicted with blindness, deafness or other physical infirmity incompatible with the discharge of the duties of a juror;
 - (b) is not in the possession of his natural faculties; or

- (c) has been convicted of an indictable offence, unless he has subsequently been granted a pardon. 1973, c. 81, s. 4.

PREPARATION OF JURY ROLLS

5.—(1) The sheriff of a county shall on or before the 15th day of September in each year determine for the ensuing year ^{Number of jurors on roll} for the county,

- (a) the number of jurors that will be required for each sittings of,
 - (i) the Supreme Court,
 - (ii) the court of general sessions of the peace in the county, and
 - (iii) the county court in the county;
- (b) the number of persons that will be required for selection from the jury roll for the purposes of any other Act; and
- (c) the aggregate number of persons that will be so required.

(2) In a provisional judicial district, after the sheriff has determined the number of persons that will be required for service during the ensuing year, he shall fix the total number of persons, that shall be selected from municipalities, and the total number that shall be selected from territory without municipal organization. ^{Number of jurors in districts}

(3) The sheriff shall forthwith upon making his determination under subsection 1 certify and transmit, ^{Trans-mission of resolutions}

- (a) to the Director of Assessment,
 - (i) a copy of the determination declaring the aggregate number of persons required for the jury roll in the county in the ensuing year, and
 - (ii) a statement of the numbers of jury service notices to be mailed to persons in the county;
- (b) to the office of the Registrar of the Supreme Court, a copy of the determination for the number of jurors under subclause i of clause a of subsection 1; and

(c) to the clerk of the county court in the county, copies of the determinations for the number of jurors under subclauses ii and iii of clause *a* of subsection 1. 1973, c. 81, s. 5, *part, amended.*

Jury service notices

6.—(1) The Director of Assessment shall in each year on or before the 31st day of October cause a jury service notice, together with a return to the jury service notice in the form prescribed by the regulations and a prepaid return envelope addressed to the sheriff of the county, to be mailed by first class mail to the number of persons in each county specified by the sheriff in his statement, and selected in the manner provided for in this section.

Selection of persons notified

(2) The persons to whom jury service notices are mailed under this section shall be selected by the Director of Assessment at random from persons who, from information obtained at the most recent census of the inhabitants of the county under section 23 of *The Assessment Act*,

R.S.O. 1970,
c. 32

- (a) at the time of the census, resided in the county and were Canadian citizens; and
- (b) in the year preceding the year for which the jury is selected, are of or will attain the age of eighteen years or more and are not of and will not attain the age of sixty-nine years or more,

and the number of persons selected from each municipality in the county shall bear approximately the same proportion to the total number selected for the county as the total number of persons eligible for selection in the municipality bears to the total number eligible for selection in the county, as determined by such census.

Application of subs. 2 to municipalities in districts

(3) In a provisional judicial district for the purposes of subsection 2, all the municipalities in the district shall together be treated in the same manner as a county from which the number of jurors required is the number fixed under subsection 2 of section 5 to be selected from municipalities.

Address for mailing

(4) The jury service notice to a person under this section shall be mailed to him at the address shown for him in the most recent census of the inhabitants of the county under section 23 of *The Assessment Act*.

Return to jury service notice

(5) Every person to whom a jury service notice is mailed in accordance with this section shall accurately and truthfully complete the return and shall mail it to the sheriff of the county within five days after receipt thereof.

(6) For the purposes of subsection 5, the notice shall be ^{When service deemed made} deemed to have been received on the third day after the day of mailing unless the person to whom the notice is mailed establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control did not receive the notice or order, or did not receive the notice or order until a later date.

(7) The Director of Assessment shall furnish to the sheriff ^{List of notices given} of the county a list of persons in the county arranged alphabetically to whom jury service notices were mailed under this section forthwith after such mailing and the list received by the sheriff purporting to be certified by the Director of Assessment is, without proof of the office or signature of the Director of Assessment, receivable in evidence in any action or proceeding as *prima facie* proof of the mailing of jury service notices to the persons shown on the list.

(8) In the selecting of persons for entry in the jury roll ^{Indian reserves} in a county or district in which an Indian reserve is situate, the sheriff shall select names of eligible persons inhabiting the reserve in the same manner as if the reserve were a municipality and, for the purpose, the sheriff may obtain the names of inhabitants of the reserve from any record available. 1973, c. 81, s. 5, *part, amended*.

7. The sheriff shall in each year prepare a roll called ^{Sheriff to prepare} ^{jury roll} the jury roll in the form prescribed by the regulations. 1973, *jury roll* c. 81, s. 5, *part, amended*.

8.—(1) The sheriff shall open the returns to jury service ^{Entry of names in jury roll} notices received by him and shall cause the name, address, age and occupation of each person making such a return, who is shown by the return to be eligible for jury service, to be entered in the jury roll alphabetically arranged and numbered consecutively.

(2) The sheriff may, with the written approval of the local ^{Omission of names} judge of the High Court, omit the name from the roll where it appears such person will be unable to attend for jury duty.

(3) The sheriff may request the Director of Assessment ^{Supplementary names} to mail such number of additional jury service notices and forms of returns to jury service notice as in the opinion of the sheriff are required.

(4) Upon receipt of a request from the sheriff under sub-^{Supplying of supplementary names} section 3, the Director of Assessment shall forthwith carry out such request and for such purpose section 6 applies *mutatis mutandis*.

mutandis with respect to the additional jury service notices requested by the sheriff to be mailed. 1973, c. 81, s. 5, *part, amended.*

Selection from unorganized territory

(5) In a provisional judicial district, the sheriff shall select names of eligible persons who reside in the district outside territory with municipal organization in the numbers fixed under subsection 2 of section 5 and for the purpose may have recourse to the latest polling list prepared and certified for such territory, and to any assessment or collector's roll prepared for school purposes and may obtain names from any other record available. 1973, c. 81, s. 7, *part, amended.*

Certification of roll

9. As soon as he has completed the jury roll but not later than the 31st day of December in each year, the sheriff shall certify the roll to be the proper roll prepared as the law directs and shall deliver notice of the certification to the local judge of the High Court, but the judge may extend the time for delivery for such reasons as he considers sufficient. 1973, c. 81, s. 5, *part, amended.*

Extension of times

10. The Chief Justice of the High Court may, upon the request of the sheriff of a county, extend any times prescribed by this Act in connection with the preparation of the jury roll for the county to such date as he considers appropriate and may authorize the continued use of the latest jury roll until the dates so fixed. 1973, c. 81, s. 5, *part, amended.*

Additions to roll by sheriff

11.—(1) Where there are no persons or not a sufficient number of persons on the proper jury roll, or where there is no jury roll for the year in existence, the sheriff may supply names of eligible jurors from the jury roll for the nearest preceding year for which there is a jury roll or certified copy thereof in existence.

Certification of additions by sheriff

(2) The names supplied to the jury roll under this section shall be entered thereon and certified by the sheriff. R.S.O. 1970, c. 230, s. 43, *amended.*

JURY PANELS

Issuance of precepts

12.—(1) The judges of the Supreme Court, or one or more of them, for the holding of any sittings of the Supreme Court, and the judge of the county court, for the holding of any sittings of the county court or of the court of general sessions of the peace, may respectively issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in their or his opinion is required. R.S.O. 1970, c. 230, s. 45 (1), *amended.*

(2) The proper officer in the office of the Registrar of Precepts to be sent to sheriffs the Supreme Court at Toronto, shall procure the precepts for the return of panels of jurors required for the sittings of the Supreme Court, and transmit them to the sheriffs as soon as conveniently may be after the day has been appointed for the sittings for which the jurors are required. R.S.O. 1970, c. 230, s. 50.

13.—(1) Where a judge of the Supreme Court considers it necessary that the jurors to form the panel for a sittings of the Supreme Court be summoned in more than one set, he may direct the sheriff to return such number of jurors in such number of sets on such day for each set as he thinks fit. R.S.O. 1970, c. 230, s. 52 (1), *amended*.

(2) The sheriff shall divide such jurors into as many sets as are directed, and shall in the summons to every juror specify at what time his attendance will be required.

(3) Each set shall for all purposes be deemed a separate panel. R.S.O. 1970, c. 230, s. 52 (2, 3).

14.—(1) The judge of the county court, if after the issue of the precept it appears to him expedient, may at any time before the day appointed for the sittings of the Supreme Court, by order under his hand and seal, and the judge assigned to hold the sittings or the presiding judge may, at any time before or during the sittings of such court, by order under his hand and seal, direct the sheriff to return an additional number of jurors.

(2) The judge of the county court, after the issue of the precept, at any time before or during the sittings of the county court or court of general sessions of the peace, by order under his hand and seal, may direct the sheriff to return an additional number of jurors.

(3) The sheriff, upon the receipt of any such order, shall forthwith draft such additional number of jurors in the manner provided by this Act, and shall add their names to the panel list, and shall forthwith thereafter summon them, and where there are not a sufficient number of jurors on the jury roll for the purpose of the additions, section 11 applies. R.S.O. 1970, c. 230, s. 48, *amended*.

15. Where the same day is appointed for holding the court of general sessions of the peace and the sittings of the county court, the sheriff may return the same panel to the precepts for the panels of jurors. R.S.O. 1970, c. 230, s. 51.

How sheriffs
to draft
panels of
jurors

16. Every sheriff to whom a precept for the return of jurors is directed shall, to such precept, return a panel list of the names of the jurors contained in the jury roll, whose names shall be drafted from such roll in the manner hereinafter mentioned. R.S.O. 1970, c. 230, s. 56.

Sheriff to
draft panel

17. Upon receipt of the precept, the sheriff shall post up in his office written notice of the day, hour and place at which he will draft the panel of jurors, and he shall draft the panel by ballot from the jury roll in the presence of a justice of the peace who shall attend upon reasonable notice from the sheriff. R.S.O. 1970, c. 230, s. 59 (1), *amended*.

How sheriff
to prepare a
panel

18.—(1) Before proceeding to draft a panel of jurors from a jury roll, the sheriff shall prepare a proper title or heading for the list of jurors to be returned, to which he shall fix an appropriate number according as such panel is the first, second, third or subsequent panel drafted from such jury roll, and the title or heading shall set forth the number of jurors to be returned.

Ballots for
drafting
panel

(2) The sheriff shall then append to such title or heading a list of numbers from "1" forward to the number required, and shall prepare a set of ballots of uniform and convenient size containing the same number of ballots as there are numbers on the jury roll, allowing one number to each ballot, which number shall be printed or written on it, and he shall then proceed to draft the panel of jurors. R.S.O. 1970, c. 230, s. 62.

Drafting
of panel

19.—(1) The sheriff shall draft the panel by drawing at random the ballots from a container in the presence of the justice of the peace.

Panel
list

(2) The names of the persons so drafted, arranged alphabetically, with their places of residence and occupations shall then be transcribed by the sheriff, with a reference to the number of each name on the jury roll, and each name shall be thereupon marked by him or by his deputy upon the jury roll, but the name of a person shall not be included on the panel list where the spouse of such person is on the list.

Idem

(3) The panel list so alphabetically arranged and numbered, with a short statement of the precept in obedience to which it has been drafted, the date and place of such drafting, and the names of the sheriff, or his deputy and the justice of the peace, present at such drafting, shall then be recorded and attested by the signatures of the sheriff, or his deputy and the justice of the peace, and such panel list shall

be retained in the custody of the sheriff. R.S.O. 1970, c. 230, s. 63, *amended*.

20. The sheriff shall, upon his return to the precept, annex thereto the panel list containing the names, and places of residence, and occupations of the persons so drafted, and shall transmit one copy thereof to the office of the Registrar of the Supreme Court at Toronto, or to the local registrar, or to the clerk of the county court, as the case may be. R.S.O. 1970, c. 230, s. 64, *amended*. Copies of panel to be transmitted

21.—(1) The sheriff shall summon every person drafted to serve on juries, by sending to him by registered mail a notice in writing in the form prescribed by the regulations under the hand of the sheriff, at least twenty-one days before the day upon which the person is to attend, but when the sheriff is directed to draft and summon additional jurors under this Act, such twenty-one days service is not necessary. R.S.O. 1970, c. 230, s. 66 (1), *amended*. Jurors to be summoned 21 days before attendance required

(2) The sheriff may excuse any person summoned for a jury sittings on the grounds of illness or hardship but unless the local judge of the High Court directs otherwise and notwithstanding any other provision of this Act, such person shall be included in a panel to be returned for a sittings later in the year or, where there are no further sittings in that year, in a panel to be returned for a sittings in the year next following. *New.* Excusing of juror

22. The jury roll and every list containing the names of the jury drafted for any panel shall be kept under lock and key by the sheriff and every officer mentioned in section 20 having a copy thereof, and except in so far as may be necessary in order to prepare the panel lists, and serve the jury summons, shall not be disclosed by the sheriff, his deputy, officer, clerk, or by any officer mentioned in section 17 or 20, or by any other person, until ten days before the sittings of the court for which the panel has been drafted, and during such period of ten days, the sheriff, or his deputy, and any officer mentioned in section 20 having a copy of the panel list shall permit the inspection at all reasonable hours of the jury roll and of the panel list or copy thereof in his custody by litigants or accused persons or their solicitors and shall furnish the litigants or accused persons or their solicitors, upon request and payment of a fee of \$2, with a copy of any such panel list. R.S.O. 1970, c. 230, s. 65, *amended*. Secrecy of jury roll and panel

23.—(1) Where there is no business requiring the attendance of a jury at a sittings of a court in respect of which a precept has been issued, Countermand where no jury cases

- (a) the clerk of the court or local registrar, as the case may be, where the sittings is for the trial of actions; or
- (b) the Crown attorney where the sittings is for the trial of criminal prosecutions,

shall, at least five clear days before the day upon which the sittings is to commence, give notice in writing to the sheriff in the form prescribed by the regulations that the attendance of the jurors is not required. R.S.O. 1970, c. 230, s. 66 (3, 4), *amended*.

**Postpone-
ment of date
for
attendance
of jurors**

(2) Where the business of the court does not require the attendance of the jurors until a day after the day upon which the sittings is to commence, the appropriate officer determined under subsection 1 shall, at least five clear days before the day upon which the sittings is to commence, give notice in writing to the sheriff in the form prescribed by the regulations that the attendance of the jurors is not required until such later day as is specified in the notice. R.S.O. 1970, c. 230, s. 47 (1), *amended*.

**Notice to
be given
to juror**

(3) Subject to subsection 5, the sheriff, upon receipt of such notice, shall forthwith by registered mail or otherwise, as he considers expedient, notify in the form prescribed by the regulations each person summoned to serve as a juror that his attendance at the sittings is not required or is not required until the day specified in the notice, and in case any person so summoned attends after receiving such notice or before the day specified, as the case may be, he is not entitled to any fees or mileage for attendance.

**Where juror
attends
owing to
non-receipt
of notice**

(4) Where, after the giving of such notice, a juror so summoned attends the sittings contrary to the notice and the sheriff is satisfied that the notice was not received prior to the attendance and that the juror attended in good faith, believing his attendance on that day to be necessary, the sheriff shall allow the juror his fees and mileage allowance. R.S.O. 1970, c. 230, s. 66 (5, 6), *amended*.

**Sheriff must
ascertain
that there
are no
prisoners
in custody**

(5) In the case of a sittings of the Supreme Court for the trial of criminal matters and proceedings, or in the case of a sittings of the court of general sessions of the peace, the sheriff shall not give the notice mentioned in subsection 3 unless he is satisfied that there is no prisoner in custody awaiting trial at the sittings. R.S.O. 1970, c. 230, s. 66 (8).

**Division of
Supreme
Court panel**

24.—(1) Where a judge of the Supreme Court considers it necessary, he may direct that the jurors summoned for a

sitting of the Supreme Court be divided into two or more sets as he may direct, and each set shall for all purposes be deemed a separate panel.

(2) Where the judge of a county court considers it necessary, ^{Division of county court panel} he may direct that the jurors summoned for jury sittings of the county court or the court of general sessions of the peace, or both, be divided into two or more sets as he may direct, and each set shall for all purposes be deemed a separate panel. 1972, c. 112, s. 6.

25. A juror summoned for jury duty may be excused ^{Excusing of juror} from attending the sittings on the grounds of illness or hardship,

- (a) before the day for attendance, by the local judge of the High Court;
- (b) on or after the day for attendance, by the judge presiding at the sittings,

and the judge may direct that the service of a person so excused be postponed and that notwithstanding any provision of this Act, he be included in a panel to be returned for a sittings later in the year or in a panel to be returned for a sittings in the year next following. 1973, c. 81, s. 8, *amended*.

26.—(1) Any number of jurors summoned for a jury sittings ^{Release of jurors by judge} of the Supreme Court or of the county court or court of general sessions of the peace may, until resummoned by direction of a judge, be released from service or further service, as the case may be, at any time before the sittings by the local judge of the High Court. R.S.O. 1970, c. 230, s. 49 (1), *amended*.

(2) The judge presiding at the sittings may release such ^{Release of jurors during sittings} jurors as, in his opinion, will not be immediately required, and the release may be for the remainder of the sittings or until the judge directs that they be summoned to reattend. R.S.O. 1970, c. 230, s. 49 (4).

(3) Where jurors have been released under this section, ^{Panel} the remaining jurors constitute the panel and where released jurors are resummoned under this section they are added to the panel. R.S.O. 1970, c. 230, s. 49 (5), *amended*.

(4) Where jurors are released under this section, they are ^{Fees} not entitled to receive the fees provided by this Act during the period of release. R.S.O. 1970, c. 230, s. 49 (6).

The Supreme Court may issue precepts as heretofore

27. Subject to this Act, the Supreme Court and the judges thereof have the same power and authority as heretofore in issuing any precept, or in making any award or order, orally or otherwise, for the return of a jury for the trial of any issue before the court, or for amending or enlarging the panel of jurors returned for the trial of any such issue, and the return to any precept, award or order shall be made in the manner heretofore used and accustomed, and the jurors shall, as heretofore, be returned from the body of the county, and shall be eligible according to this Act. R.S.O. 1970, c. 230, s. 53.

County courts

28. The provisions of this Act respecting the issue of precepts for the return of a general panel of jurors for the sittings of the Supreme Court, as well as for the execution and return of the precepts, with all things touching the same, shall be observed and followed in all particulars with respect to the sittings of courts of general sessions of the peace and of county courts. R.S.O. 1970, c. 230, s. 55, *amended*.

ACTIONS TRIED BY JURY

When actions to be entered for trial

29. Subject, in the case of an action in the Supreme Court, to any order made by a judge of that court, and in the case of an action in the county court, to any order made by a judge of the county court, actions to be tried by a jury, whether in the Supreme Court or the county court, shall be entered for trial not later than six clear days before the first day of the sittings. R.S.O. 1970, c. 230, s. 66 (2), *amended*.

DRAWING JURY AT TRIAL

Empanelling jury at the trial

30.—(1) The name of every person summoned to attend as a juror, with his place of residence, occupation, and number on the panel list shall be written distinctly by the sheriff on a card or paper, as nearly as may be of the form and size following, viz.:

15. DAVID BOOTH

OF LOT No. 11, IN THE 7TH CON. OF ALBION
MERCHANT

and the names so written shall, under the direction of the sheriff, be put together in a container to be provided by him for that purpose, and he shall deliver it to the clerk of the court. R.S.O. 1970, c. 230, s. 70.

How the clerk is to proceed to draw names

(2) Where an issue is brought on to be tried, or damages are to be assessed by a jury, the clerk shall, in open court, cause the container to be shaken so as sufficiently to mix the names, and shall then draw out six of the cards or papers, one after another, causing the container to be shaken after the drawing

of each name, and if any juror whose name is so drawn does not appear or is challenged and set aside, then such further number until six jurors are drawn, who do appear, and who, after all just causes of challenge allowed, remain as fair and indifferent, and the first six jurors so drawn, appearing and approved as indifferent, their names being noted in the minute book of the clerk of the court, shall be sworn, and shall be the jury to try the issue or to assess the damages.

(3) The cards or papers containing the names of persons so drawn and sworn shall be kept apart until the jury has given in its verdict, and it has been recorded, or until the jury has been by consent of the parties, or by leave of the court, discharged, and shall then be returned to the container there to be kept with the other cards or papers remaining therein. R.S.O. 1970, c. 230, s. 71.

31. A jury may be selected in accordance with section 30 at any time before the trial of an issue or assessment of damages directed by the judge presiding at the sittings and shall attend for service upon the summons of the sheriff. R.S.O. 1970, c. 230, s. 72.

32. Notwithstanding sections 30 and 31, where no objection is made by a party, the court may try any issue or assess damages with the jury previously drawn to try any other issue, or to assess damages, without the cards or papers containing their names being returned to the container and redrawn, or may order any of the jurors whom both parties consent to withdraw, or who may be justly challenged or excused by the court, to retire and may cause another name or other names to be drawn from the container, and shall try the issue or assess the damages with the residue of the original jury and the new jurors who appear and are approved as indifferent. R.S.O. 1970, c. 230, s. 73.

33.—(1) Where a full jury does not appear at a sittings of a court for civil matters, or where, after the appearance of a full jury, by challenge of any of the parties, the jury is likely to remain untaken for default of jurors, the court may command the sheriff to name and appoint so many of such other able persons of the county then present, or who can be found, as will make up a full jury, and the sheriff shall return such persons to serve on the jury.

(2) Where a full jury does not appear, the names of the persons so returned shall be added to the panel returned upon the precept. R.S.O. 1970, c. 230, s. 74.

34. The presiding judge before whom a civil case is or may be heard may in his discretion on an application made by or on

behalf of the parties or any of them or at his own instance, make an order for the jury to be composed of men only or of women only, as the case may require. R.S.O. 1970, c. 230, s. 75, *amended*.

The sheriff
to note on
rolls names
of jurors
who do not
serve

35. Immediately after the sittings of the Supreme Court and of the court of general sessions of the peace, and of the county court, the sheriff shall note on the jury roll from which the panel of jurors returned to the sittings was drafted opposite the names of the jurors, the non-attendance or default of every juror who has not attended until discharged by the court. 1973, c. 81, s. 10, *part*.

Lack of
eligibility

36. If a person not eligible is drawn as a juror for the trial of an issue in any matter or proceeding, the want of eligibility is a good cause for challenge. 1973, c. 81, s. 10, *part*.

Peremptory
challenges in
civil cases

37. In any cause, the plaintiff or plaintiffs, on one side, and the defendant or defendants, on the other, may challenge peremptorily any four of the jurors drawn to serve on the trial, and such right of challenge extends to the Crown when a party. R.S.O. 1970, c. 230, s. 78.

Ratepayers,
officers, etc.,
of municipi-
lality
may be
challenged

38. In a matter or proceeding to which a municipal corporation, other than a county, is a party, every ratepayer, and every officer or servant of the corporation is, for that reason, liable to challenge as a juror. R.S.O. 1970, c. 230, s. 79.

GENERAL

Fees payable
to jurors,
selectors,
etc.

R.S.O. 1970,
c. 6

39.—(1) Such fees and allowances as are prescribed under *The Administration of Justice Act* shall be paid to,

(a) every juror attending a sitting of the Supreme Court or of the court of general sessions of the peace or of the county court; and

(b) the justice of the peace in attendance for each panel drafted under section 17. 1971, c. 9, s. 5; 1973, c. 81, s. 12, *amended*.

Sums to be
paid with
record when
entered for
trial in jury
cases

(2) With every record entered for trial of issues or assessment of damages by a jury in the Supreme Court there shall be paid to the Registrar or the local registrar of the Supreme Court, as the case may be, such sum as is prescribed under *The Administration of Justice Act*, and the record shall not be entered unless such sum is first paid. R.S.O. 1970, c. 230, s. 87.

40.—(1) The clerk of the court or the sheriff or his officer shall, at the opening of the court and before any other business is proceeded with, call the names of the jurors, and the sheriff or his officer shall record those who are present or absent. R.S.O. 1970, c. 230, s. 85, *amended*. List of jurors to be called

(2) The sheriff shall keep a record of the payment of fees to jurors for attending sittings of a court. Record of fees paid *New.*

(3) A juror not appearing when called is not entitled to pay for the day on which he makes default. R.S.O. 1970, c. 230, s. 86. Jurors not attending not to be paid

41. The Lieutenant Governor in Council may make Regulations regulations,

- (a) prescribing any form required or permitted by this Act to be prescribed by the regulations;
- (b) prescribing the manner of keeping jury rolls and lists of jury panels and records thereof and requiring and prescribing the form of the certification or authentication of entries therein. *New.*

42.—(1) Every person who,

Offences

- (a) wilfully makes or causes to be made any alteration in any roll or panel or in any certified copy thereof except in accordance with this Act;
- (b) falsely certifies any roll or panel; or
- (c) influences or attempts to influence the selection of persons for inclusion in or omission from any jury roll or panel, except in a proper procedure under this Act,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both. R.S.O. 1970, c. 230, s. 92, *amended*.

(2) Every sheriff or clerk of the peace, or clerk or registrar of a court who refuses to perform any duty imposed on him by this Act, is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000. R.S.O. 1970, c. 230, s. 93, *amended*. Idem

(3) Every person who is required to complete a return to Idem jury service notice and who,

- (a) without reasonable excuse fails to complete the return or mail it to the sheriff as required by subsection 7 of section 6; or
- (b) knowingly gives false or misleading information in the return,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. 1973, c. 81, s. 14.

Evidence of
not mailing

(4) For the purposes of subsection 3, where the sheriff fails to receive a return to a jury service notice within five days from the date on which it was required by this Act to be mailed, such failure is *prima facie* proof that the person required to mail it to the sheriff failed to do so in the time required.

Certificate
as evidence

(5) A statement as to the receipt or non-receipt of a return to a jury service notice purporting to be certified by the sheriff is, without proof of the appointment or signature of the sheriff, receivable in evidence as *prima facie* proof of the facts stated therein in any prosecution under subsection 3. *New.*

Contempt
of court

43. Every person is in contempt of court who, without reasonable excuse,

- (a) having been duly summoned to attend on a jury, does not attend in pursuance of the summons, or being there called does not answer to his name; or
- (b) being a juror or talesman, after having been called, is present but does not appear, or after his appearance wilfully withdraws himself from the presence of the court; or
- (c) being a sheriff, wilfully empanels and returns to serve on a jury a person whose name has not been duly drawn upon the panel in the manner prescribed in this Act; or
- (d) being a registrar, clerk of the peace, or other officer wilfully records the appearance of a person so summoned and returned who has not actually appeared. R.S.O. 1970, c. 230, ss. 89, 91, *amended.*

Idem,
tampering
with jurors

44.—(1) Every person is in contempt of court who, being interested in an action that is or is to be entered for trial or may be tried in the court, or being the solicitor, counsel,

agent or emissary of such person, before or during the sittings or at any time after a juror on the jury panel for such court, has been summoned knowingly, directly or indirectly, speaks to or consults with the juror respecting such action or any matter or thing relating thereto. R.S.O. 1970, c. 230, s. 95 (1), amended.

(2) Where a solicitor or barrister or student at law or articled clerk is guilty of such offence he may, in addition to any other penalty, be struck from the roll of solicitors or be disbarred or suspended from the practice of his profession for a limited time or his name may be erased from the list of the Law Society or removed therefrom for a limited time by the Supreme Court upon motion at the instance and in the name of the Attorney General.

(3) This section does not apply where a juror is also a party to or a known witness or interested in the action or is otherwise ineligible as a juror in the action, nor to anything that may properly take place in the course of the trial or conduct of the action. R.S.O. 1970, c. 230, s. 95 (2, 3).

45. The sheriff shall at the sittings of the Supreme Court or county court for trials by jury and the court of general sessions of the peace post up in the court room and jury rooms and in the general entrance hall of the court house, printed copies in conspicuous type of subsections 2 and 3 of section 127 of the *Criminal Code* (Canada) and subsection 1 of section 44 of this Act. R.S.O. 1970, c. 230, s. 96.

46. Nothing in this Act alters, abridges or affects any power or authority that any court or judge has, or any practice or form in regard to trials by jury, juries or jurors, except in those cases only where such power or authority, practice or form is repealed or altered, or is inconsistent with any of the provisions of this Act. R.S.O. 1970, c. 230, s. 97.

47.—(1) The omission to observe any of the provisions of this Act respecting the eligibility, selection, balloting and distribution of jurors, the preparation of the jury roll or the drafting of panels from the jury roll is not a ground for impeaching or quashing a verdict or judgment in any action. R.S.O. 1970, c. 230, s. 81, amended.

(2) Subject to sections 36 and 38, a jury panel returned by the sheriff for the purposes of this Act shall be deemed to be properly selected for the purposes of the service of the jurors in any matter or proceeding. 1973, c. 81, s. 11.

48.—(1) The judges of the Supreme Court, or one or more of them, for the holding of any sittings of the Supreme Court, issue precepts to the sheriffs

and the judge of the county court, for the holding of any sittings of the county court or of the court of general sessions of the peace, may issue precepts to the sheriff for the return of a proper number of grand jurors for such sittings.

Number of
grand jurors

(2) The precepts for the return of grand jurors shall command the return, and the panel shall consist of seven grand jurors.

Cancellation
of
precept for
grand jury

(3) Where, after the issue of a precept for the return of grand jurors, the Crown attorney informs a judge authorized under subsection 1 to issue the precept that there are no criminal prosecutions at the sittings for which the precept was issued, the judge may,

(a) cancel the precept; or

(b) if summonses have been served on the persons drafted to serve on the grand jury, direct the sheriff to notify each person so summoned, in the manner prescribed by subsection 3 of section 23. R.S.O. 1970, c. 230, s. 45, *amended*.

Inspection
of
institutions

49.—(1) The judge presiding at a jury sittings of the Supreme Court and at a sittings of the court of general sessions of the peace shall instruct the grand jury that it may inspect all or any of the institutions in the county or district and lockups established for the county or district that are maintained in whole or in part by public moneys, and every grand jury that makes such an inspection shall prepare a report or presentment indicating the conditions found to be existing in each of the institutions inspected, but where such an inspection has been conducted within six months prior to the date of the commencement of such sittings, no inspection shall be made without the specific consent of the judge. R.S.O. 1970, c. 230, s. 46 (1); 1972, c. 112, s. 5.

Amount of
time to be
spent in
inspection

(2) The time that may be devoted by a grand jury to the inspection of institutions is subject to the control and direction of the presiding judge. R.S.O. 1970, c. 230, s. 46 (2).

R.S.O. 1970,
c. 230,
repealed

50.—(1) *The Jurors Act*, being chapter 230 of the Revised Statutes of Ontario, 1970, is repealed.

1971, c. 9,
repealed

(2) *The Jurors Amendment Act, 1971*, being chapter 9, is repealed.

1971, c. 98,
Sched. par. 16
repealed

(3) Paragraph 16 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98, as amended by the Statutes of Ontario, 1972, chapter 112, section 2 and 1973, chapter 81, section 7, is repealed.

(4) *The Jurors Amendment Act, 1972*, being chapter 112, ^{1972, c. 112,} repealed is repealed.

(5) *The Jurors Amendment Act, 1972 (No. 2)*, being chapter 170, ^{1972, c. 170,} repealed is repealed.

(6) *The Jurors Amendment Act, 1973*, being chapter 81, is ^{1973, c. 81,} repealed.

51. Sections 48 and 49 are repealed on a day to be named ^{Repeal of ss. 48, 49} by proclamation of the Lieutenant Governor.

52. This Act comes into force on the day it receives Royal ^{Commencement} Assent.

53. This Act may be cited as *The Juries Act, 1974*.

Short title

The Juries Act, 1974

1st Reading

June 18th, 1974

2nd Reading

June 25th, 1974

3rd Reading

June 26th, 1974

THE HON. R. WELCH
Attorney General

CAZON

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Government
Publications

BILL 106

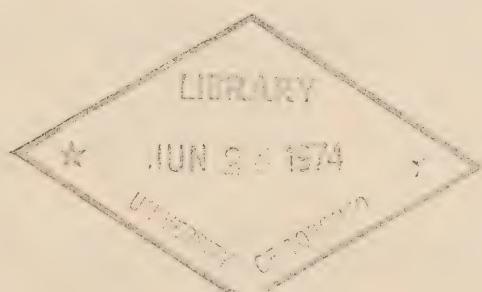
Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Legislative Assembly

**An Act to provide for the
Inspection of Public Institutions by Public Visitation**

THE HON. R. WELCH
Attorney General



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill provides for the inspection of public institutions by a panel selected from the jury roll to replace the public inspection function of grand juries which are abolished under the new *Juries Act, 1974.*

BILL 106**1974**

**An Act to provide for the
Inspection of Public Institutions by
Public Visitation**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "judge" means a county or district court judge;

(b) "panel" means the public institutions inspection panel.

2.—(1) The judge of every county or district shall, on the first Monday in May and November in each year, or so soon thereafter as is practicable, convene in open court a panel composed of seven persons selected from the jury roll prepared under *The Juries Act, 1974*, c. ... 1974 for the county or district and for this purpose the sheriff shall provide the panel.

(2) *The Juries Act, 1974* applies to the selection, recording, summoning, attendance and service of the persons for service on a public institutions inspection panel in the same manner as to the selection, recording, summoning, attendance and service of persons for service on a panel of jurors selected for a sittings of a court.

(3) Payment of fees to a member of a panel shall be deemed to be payment of fees to a person for attending sittings of a court as a juror for the purposes of subsection 3 of section 3 of *The Juries Act, 1974*.

(4) The panel shall appoint one of its members to be chairman of the panel.

(5) The judge shall instruct the panel in its duties.

Duty of
judge

Excusing from duty

3.—(1) The judge may excuse any person summoned to serve on a panel from attending on grounds of illness or hardship.

Exclusion for interest

(2) The judge may exclude any person summoned to serve on the panel or excuse a panel member from participating in any inspection where the judge believes that the duty of the person under this Act is or may be in conflict with another interest of such person.

Reduced panel

(3) Where, after the panel is convened, any person on the panel dies or becomes incapacitated from any cause or is excluded or excused from serving by the judge under subsection 1 or 2, the judge may authorize the remainder of the panel to proceed with its duties under this Act.

Duties of panel

4.—(1) The panel may inspect all or any of the institutions in the county or district that are maintained in whole or in part by public money.

Lock-ups

(2) The panel shall inspect all institutions in the county or district in which persons are being held in custody for the purpose of a judicial proceeding.

Report

(3) Every panel that makes such an inspection shall prepare a report indicating the conditions found to be existing in each of the institutions inspected and with respect to institutions referred to in subsection 2 indicating whether any persons are being held therein improperly or for an unreasonable length of time.

Time for completion

(4) The inspections shall be completed within two weeks after the panel is convened but the judge may extend the time for completion of the inspection and during such period of extension the inspection is subject to the control and direction of the judge.

Powers of inspection

5.—(1) Subject to any agreement between the chairman and the institution, the panel may, after a request for entry by the chairman, enter any public institution the panel is entitled to inspect under section 4 at any time during reasonable business hours and may inspect therein all parts of the premises, and any documents, records, files or accounts in the custody of the institution, and the panel or any member thereof may interrogate any person on the premises concerning any matter respecting the affairs, administration and operation of the institution.

Offence

(2) Any person who wilfully obstructs an inspection by a panel or any member thereof under subsection 1 is

guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

6.—(1) The panel shall submit its report to the judge^{Delivery of report} sitting in open court.

(2) The judge to whom a report is submitted shall for^{Distribution of report} ward a copy of the report to the Attorney General.

(3) The report submitted to the judge shall be filed with^{Filing of report} the clerk of the county or district court as a public document and shall be available for public inspection.

7. The Lieutenant Governor in Council may make regula-^{Regulations} tions prescribing the fees and allowances payable to mem- bers of panels and providing for reimbursement for expenses.

8. This Act comes into force on a day to be named by^{Commencement} proclamation of the Lieutenant Governor.

9. This Act may be cited as *The Public Institutions*^{Short title} *Inspection Act, 1974.*

An Act to provide
for the Inspection of Public
Institutions by Public Visitation

1st Reading

June 18th, 1974

2nd Reading

3rd Reading

THE HON. R. WELCH
Attorney General

(*Government Bill*)

CAZON

XB

-B 56

BILL 106

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to provide for the
Inspection of Public Institutions by Public Visitation

THE HON. R. WELCH
Attorney General

(Reprinted as amended by the Committee of the Whole House)



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill provides for the inspection of public institutions by a panel selected from the jury roll to replace the public inspection function of grand juries which are abolished under the new *Juries Act, 1974.*

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(a) "judge" means a county or district court judge;

(b) "panel" means the public institutions inspection panel.

2.—(1) The judge of every county or district shall, on the first Monday in May and November in each year, or so soon thereafter as is practicable, convene in open court a public institutions inspection panel composed of seven persons selected from the jury roll prepared under *The Juries Act, 1974, c. ... 1974* for the county or district and for this purpose the sheriff shall provide the panel.

(2) *The Juries Act, 1974* applies to the selection, recording, summoning, attendance and service of the persons for service on a public institutions inspection panel in the same manner as to the selection, recording, summoning, attendance and service of persons for service on a panel of jurors selected for a sittings of a court.

(3) Payment of fees to a member of a panel shall be deemed to be payment of fees to a person for attending sittings of a court as a juror for the purposes of subsection 3 of section 3 of *The Juries Act, 1974*.

(4) The panel shall appoint one of its members to be chairman of the panel.

(5) The judge shall instruct the panel in its duties and powers.

Duty of
judge

Excusing from duty	3. —(1) The judge may excuse any person summoned to serve on a panel from attending on grounds of illness or hardship.
Exclusion for interest	(2) The judge may exclude any person summoned to serve on the panel or excuse a panel member from participating in any inspection where the judge believes that the duty of the person under this Act is or may be in conflict with another interest of such person.
Reduced panel	(3) Where, after the panel is convened, any person on the panel dies or becomes incapacitated from any cause or is excluded or excused from serving by the judge under subsection 1 or 2, the judge may authorize the remainder of the panel to proceed with its duties under this Act.
Duties of panel	4. —(1) The panel may inspect all or any of the institutions in the county or district that are maintained in whole or in part by public money.
Lock-ups	(2) The panel shall inspect all institutions in the county or district in which persons are being held in custody for the purpose of a judicial proceeding.
Report	(3) Every panel that makes such an inspection shall prepare a report indicating the conditions found to be existing in each of the institutions inspected and with respect to institutions referred to in subsection 2 indicating whether any persons are being held therein improperly or for an unreasonable length of time.
Time for completion	(4) The inspections shall be completed within two weeks after the panel is convened but the judge may extend the time for completion of the inspection and during such period of extension the inspection is subject to the control and direction of the judge.
Powers of inspection	5. —(1) Subject to any agreement between the chairman and the institution, the panel may, after a request for entry by the chairman, enter any public institution the panel is entitled to inspect under section 4 at any time during reasonable business hours and may inspect therein all parts of the premises, and any documents, records, files or accounts in the custody of the institution, and the panel or any member thereof may interrogate any person on the premises concerning any matter respecting the affairs, administration and operation of the institution.
Offence	(2) Any person who wilfully obstructs an inspection by a panel or any member thereof under subsection 1 is

guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

6.—(1) The panel shall submit its report to the judge^{Delivery of report} sitting in open court.

(2) The judge to whom a report is submitted shall forward^{Distribution of report} a copy of the report to the Attorney General.

(3) The report submitted to the judge shall be filed with^{Filing of report} the clerk of the county or district court as a public document and shall be available for public inspection.

7. The Lieutenant Governor in Council may make regulations^{Regulations} prescribing the fees and allowances payable to members of panels and providing for reimbursement for expenses.

8. This Act comes into force on a day to be named by^{Commencement} proclamation of the Lieutenant Governor.

9. This Act may be cited as *The Public Institutions*^{Short title} *Inspection Act, 1974.*

An Act to provide
for the Inspection of Public
Institutions by Public Visitation

1st Reading

June 18th, 1974

2nd Reading

June 26th, 1974

3rd Reading

THE HON. R. WEICH
Attorney General

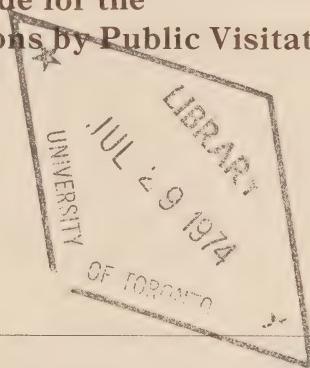
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Committee of the Whole House)

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BILL 106

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to provide for the
Inspection of Public Institutions by Public Visitation



THE HON. R. WELCH
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 106**1974**

**An Act to provide for the
Inspection of Public Institutions by
Public Visitation**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "judge" means a county or district court judge;

(b) "panel" means the public institutions inspection panel.

2.—(1) The judge of every county or district shall, on the first Monday in May and November in each year, or so soon thereafter as is practicable, convene in open court a panel composed of seven persons selected from the jury roll prepared under *The Juries Act, 1974, c. . . . 1974* for the county or district and for this purpose the sheriff shall provide the panel.

(2) *The Juries Act, 1974* applies to the selection, recording of summoning, attendance and service of the persons for service on a public institutions inspection panel in the same manner as to the selection, recording, summoning, attendance and service of persons for service on a panel of jurors selected for a sittings of a court.

(3) Payment of fees to a member of a panel shall be deemed to be payment of fees to a person for attending sittings of a court as a juror for the purposes of subsection 3 of section 3 of *The Juries Act, 1974*.

(4) The panel shall appoint one of its members to be chairman of the panel.

(5) The judge shall instruct the panel in its duties and powers.

Duty of
judge

Excusing from duty	3. —(1) The judge may excuse any person summoned to serve on a panel from attending on grounds of illness or hardship.
Exclusion for interest	(2) The judge may exclude any person summoned to serve on the panel or excuse a panel member from participating in any inspection where the judge believes that the duty of the person under this Act is or may be in conflict with another interest of such person.
Reduced panel	(3) Where, after the panel is convened, any person on the panel dies or becomes incapacitated from any cause or is excluded or excused from serving by the judge under subsection 1 or 2, the judge may authorize the remainder of the panel to proceed with its duties under this Act.
Duties of panel	4. —(1) The panel may inspect all or any of the institutions in the county or district that are maintained in whole or in part by public money.
Lock-ups	(2) The panel shall inspect all institutions in the county or district in which persons are being held in custody for the purpose of a judicial proceeding.
Report	(3) Every panel that makes such an inspection shall prepare a report indicating the conditions found to be existing in each of the institutions inspected and with respect to institutions referred to in subsection 2 indicating whether any persons are being held therein improperly or for an unreasonable length of time.
Time for completion	(4) The inspections shall be completed within two weeks after the panel is convened but the judge may extend the time for completion of the inspection and during such period of extension the inspection is subject to the control and direction of the judge.
Powers of inspection	5. —(1) Subject to any agreement between the chairman and the institution, the panel may, after a request for entry by the chairman, enter any public institution the panel is entitled to inspect under section 4 at any time during reasonable business hours and may inspect therein all parts of the premises, and any documents, records, files or accounts in the custody of the institution, and the panel or any member thereof may interrogate any person on the premises concerning any matter respecting the affairs, administration and operation of the institution.
Offence	(2) Any person who wilfully obstructs an inspection by a panel or any member thereof under subsection 1 is

guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

6.—(1) The panel shall submit its report to the judge ^{Delivery of report} sitting in open court.

(2) The judge to whom a report is submitted shall forward ^{Distribution of report} a copy of the report to the Attorney General.

(3) The report submitted to the judge shall be filed with ^{Filing of report} the clerk of the county or district court as a public document and shall be available for public inspection.

7. The Lieutenant Governor in Council may make regulations prescribing the fees and allowances payable to members of panels and providing for reimbursement for expenses.

8. This Act comes into force on a day to be named by ^{Commencement} proclamation of the Lieutenant Governor.

9. This Act may be cited as *The Public Institutions* ^{Short title} *Inspection Act, 1974.*

An Act to provide
for the Inspection of Public
Institutions by Public Visitation

1st Reading

June 18th, 1974

2nd Reading

June 26th, 1974

3rd Reading

June 26th, 1974

THE HON. R. WELCH
Attorney General

BILL 107

Government Bill

CAZON

XB

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO

23 ELIZABETH II, 1974

**An Act to amend
The Ontario School Trustees' Council Act**

THE HON. T. L. WELLS
Minister of Education



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The composition of the Council is amended to refer to the Ontario Public School Trustees' Association which is the new body composed of four former member associations and to the new name of the association formerly known as L'Association des Commissions des Ecoles Bilingues d'Ontario.

SECTION 2. The amendment removes the requirement of the Minister's approval for the Executive to acquire and hold real and personal property, to invest the funds of the Council and to make grants to organizations having the same or like objects as the Council.

SECTION 3. The amendment removes the power to make regulations respecting the number of representatives to be appointed to the Council by the member associations or any combination thereof since this is now provided for in subsection 1 of section 3 as re-enacted.

BILL 107**1974**

**An Act to amend
The Ontario School Trustees' Council Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 3 of *The Ontario School Trustees' Council Act*, being chapter 329 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 - (1) The Council shall be composed of seven representatives appointed by the Ontario Public School Trustees' Association and three representatives appointed by each of the following member associations:
 1. L'Association Francaise des Conseils Scolaires de l'Ontario.
 2. Northern Ontario Public and Secondary School Trustees' Association.
 3. Ontario Separate School Trustees' Association.
2. Section 9 of the said Act is amended by striking out "subject to the approval of the Minister" in the second and third lines.
3. Section 12 of the said Act is repealed. s. 12,
repealed
4. This Act comes into force on the day it receives Royal Assent. Commencement
5. This Act may be cited as *The Ontario School Trustees' Council Amendment Act, 1974*. Short title

An Act to amend
The Ontario School Trustees'
Council Act

1st Reading

June 18th, 1974

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(Government Bill)

XB

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend
The Ontario School Trustees' Council Act

THE HON. T. L. WELLS
Minister of Education



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 107**1974**

**An Act to amend
The Ontario School Trustees' Council Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 3 of *The Ontario School Trustees' Council Act*, being chapter 329 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 - (1) The Council shall be composed of seven representatives appointed by the Ontario Public School Trustees' Association and three representatives appointed by each of the following member associations:
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2. Section 9 of the said Act is amended by striking out "subject to the approval of the Minister" in the second and third lines.
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5. This Act may be cited as *The Ontario School Trustees' Council Amendment Act, 1974.*

An Act to amend
The Ontario School Trustees'
Council Act

1st Reading

June 18th, 1974

2nd Reading

June 26th, 1974

3rd Reading

June 27th, 1974

THE HON. T. L. WELLS
Minister of Education

CAZON
XB
-B56

BILL 108

Government Bill

Government
Publications

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Highway Traffic Act

THE HON. J. R. RHODES
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. Part II of the Act relates to permits and number plates for motor vehicles and trailers. The Part, comprising sections 5a to 12 of the Act, is amended to provide for the validation of permits and number plates and to provide authority for prescribing the terms during which permits will be in force.

BILL 108**1974**

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Part II of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, sections 2 to 7, is further amended by striking out the heading preceding section 6 and inserting in lieu thereof "PERMITS", and by adding thereto the following section:

5a. In this Part,

Interpre-
tion

- (a) "number", when used in relation to a permit or plate, means a number or a combination of letters and numbers, and "numbered", when so used, means bearing a number or a combination of letters and numbers;
- (b) "permit" means a permit issued under subsection 3 of section 6;
- (c) "validate" means render in force for the period of time prescribed by the regulations, and "validation" and "validated" have corresponding meanings.

2.—(1) Subsections 1 and 3 of section 6 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 2, are repealed and the following substituted therefor:

- (1) The owner of a motor vehicle or trailer shall not,
 - (a) drive the motor vehicle;
 - (b) cause or permit the motor vehicle to be driven;
 - (c) draw the trailer; or

Permit and
number
plates
required

(d) cause or permit the trailer to be drawn,

on a highway except under the authority of a permit for the motor vehicle or trailer issued or validated under subsection 3.

**Issuance
or validation
of permits
and number
plates**

(3) Upon the application of the owner of a motor vehicle or trailer and upon payment of the fee prescribed by the regulations, the Ministry or any person authorized by the Minister shall,

- (a) issue for the motor vehicle or trailer a numbered permit and a number plate or number plates, in accordance with the regulations, bearing the number of the permit; or
- (b) validate the permit issued for the motor vehicle or trailer and provide such evidence of the validation for display upon the motor vehicle or trailer as may be prescribed by the regulations.

Records

(3a) The Ministry shall maintain,

- (a) a numerical index record of all permits issued and in force under this section; and
- (b) an alphabetical index record of the names and addresses of all persons to whom permits that are in force have been issued.

**Effective
term of
permit**

(3b) A permit that is issued or validated is in force during the period of time prescribed by the regulations.

**s. 6(4),
amended**

(2) Subsection 4 of the said section 6, as amended by the Statutes of Ontario, 1973, chapter 45, section 2, is further amended by striking out "accept the registration of, or" in the first and second lines and inserting in lieu thereof "issue or validate or may".

**s. 6(7),
re-enacted**

(3) Subsection 7 of the said section 6 is repealed and the following substituted therefor:

**Regulations
re permits
and number
plates**

(7) The Lieutenant Governor in Council may make regulations respecting any matter ancillary to the provisions of this Part with respect to permits and number plates and in particular,

- (a) prescribing forms for the purposes of this section and requiring their use;

- (b) respecting the issuance and validation of permits and the issuance of number plates;
- (c) prescribing the period of time during which permits shall be in force that are issued or validated for motor vehicles or trailers or any class or type of either of them;
- (d) prescribing fees for the issuance, validation and replacement of permits and number plates and of evidence of validation of permits;
- (e) governing the method of validating permits and the form of and manner of affixing, displaying or showing evidence of the validation of permits on motor vehicles and trailers;
- (f) respecting permits and number plates for and the operation of motor vehicles or trailers owned by manufacturers or dealers and not kept by them for private use.

3.—(1) Subsection 2 of section 7 of the said Act is repealed^{s. 7(2), re-enacted} and the following substituted therefor:

- (2) Where an owner changes his address as stated in an application for a permit or for the validation of a permit or in a previous notice sent or filed under this subsection, he shall within six days send by registered mail to or file with the Ministry notice of his new address.
- (2) Subsection 3 of the said section 7 is amended by striking^{s. 7(3), amended} out “registration of” in the eleventh line and inserting in lieu thereof “the issuance, validation or transfer of a permit for”.

4. Section 8 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 3, is repealed and the following substituted therefor:

8.—(1) The owner of a motor vehicle shall not drive the motor vehicle or cause or permit it to be driven on a highway unless,

- (a) the number plate or number plates issued in accordance with the regulations and showing the number of a permit that is issued by the Ministry or a person authorized by the Minister and in force for the motor vehicle are displayed on the motor vehicle in the manner prescribed by the regulations; and

Number
plate on
trailer

(b) where the permit for the motor vehicle has been validated, there is affixed to the motor vehicle in the form and manner prescribed by the regulations evidence of the validation of the permit.

(2) The owner of a trailer shall not draw the trailer or cause or permit it to be drawn on a highway unless,

(a) there is attached to and exposed on the back thereof a number plate furnished by the Ministry or a person authorized by the Minister showing in plain figures the number of a permit issued and in force for the trailer; and

(b) where the permit for the trailer has been validated, there is affixed to the trailer in the form and manner prescribed by the regulations evidence of the validation of the permit.

s. 9(1),
amended

5. Subsection 1 of section 9 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 4, is further amended by striking out "or" at the end of clause *c*, by adding "or" at the end of clause *d* and by adding thereto the following clause:

(e) where the permit for a motor vehicle or trailer is validated or is required to be validated, fails to display on the motor vehicle or trailer in the form and manner prescribed by the regulations evidence of the validation of the permit,

s. 11.
re-enacted

6. Section 11 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 6, is repealed and the following substituted therefor:

Improper
number
plate

11. Where a peace officer has reason to believe that,

(a) a number plate attached to a motor vehicle or trailer,

(i) was not furnished by the Ministry or a person authorized by the Minister for the motor vehicle or trailer, or

(ii) although furnished by the Ministry or a person authorized by the Minister for the motor vehicle or trailer, was obtained by false pretences; or

SECTION 8. The new section 152*a* permits a justice of the peace or a provincial judge to order that a lesser fine or no fine be imposed upon conviction of a person for a prescribed offence where the convicted person on the recommendation of the justice of the peace or provincial judge attends and successfully completes a driver improvement program conducted by the Ministry.

The offences to which the section is applicable may be prescribed by the regulations and the municipalities in which the driver improvement programs may be conducted may be designated by the regulations.

(b) evidence that is displayed on a motor vehicle or trailer of the validation of a permit,

- (i) was not furnished by the Ministry or a person authorized by the Minister in respect of the motor vehicle or trailer on which the evidence is displayed, or
- (ii) although furnished by the Ministry or a person authorized by the Minister in respect of the motor vehicle or trailer on which the evidence is displayed, was obtained by false pretences,

the peace officer may take possession of the number plate attached to the motor vehicle or trailer and retain it until the facts as to the use or furnishing of the number plate or the evidence of validation of the permit for the motor vehicle or trailer have been determined.

- 7.**—(1) Subsection 1 of section 12 of the said Act is amended <sup>s. 12 (1),
amended</sup> by striking out “registered under the laws of and owned by residents of Ontario” in the ninth and tenth lines and inserting in lieu thereof “owned by residents of Ontario for which permits are issued and in force under this Act and the regulations”.
- (2) Subsection 2 of the said section 12 is amended by <sup>s. 12 (2),
amended</sup> striking out “registered under the laws of and owned by residents of Ontario” in the sixth line and inserting in lieu thereof “owned by residents of Ontario for which permits are issued and in force under this Act and the regulations”.
- (3) Subsection 3 of the said section 12 is amended by <sup>s. 12 (3),
amended</sup> striking out “registration” in the second line and inserting in lieu thereof “the provisions of sections 6 and 8”.

- 8.** The said Act is amended by adding thereto the following <sup>s. 152a,
enacted</sup> section:

152a.—(1) In this section,

Interpre-
tion

- (a) “designated” means designated by the regulations;
- (b) “driver improvement program” means a course of instruction for the improvement of the knowledge and attitudes as drivers of persons who hold licences to drive motor vehicles on a highway;
- (c) “justice” means a justice of the peace or a provincial judge;

Driver improvement program
R.S.O. 1970,
c. 450

(d) "prescribed" means prescribed by the regulations;

(e) "regulations" means the regulations made under subsection 3.

(2) Notwithstanding anything in *The Summary Convictions Act*, where in a designated municipality a justice convicts a person of a prescribed offence and the person, on the recommendation of the justice, attends and successfully completes a driver improvement program conducted by the Ministry, the justice may impose a lesser fine than the fine otherwise provided for by this Act or may order that no fine shall be imposed upon the person in respect of the offence.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

(a) designating municipalities as areas in which driver improvement programs may be conducted by the Ministry in conjunction with the adjudication of offences under this Act;

(b) prescribing the offences under this Act in conjunction with the adjudication of which driver improvement programs may be conducted by the Ministry.

Commencement

9.—(1) This Act, except sections 1 to 7, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 to 7 come into force on the 1st day of September, 1974.

Short title

10. This Act may be cited as *The Highway Traffic Amendment Act, 1974*.

An Act to amend
The Highway Traffic Act

1st Reading

June 18th, 1974

2nd Reading

3rd Reading

THE HON. J. R. RHODES
Minister of Transportation
and Communications

(*Government Bill*)

BILL 108

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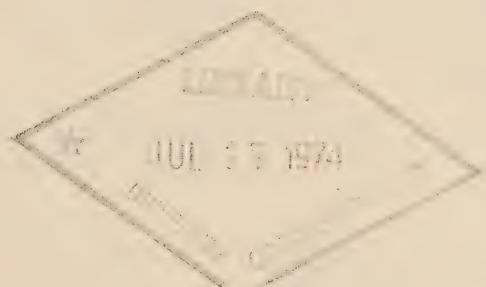
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4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Highway Traffic Act

THE HON. J. R. RHODES
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 108**1974****An Act to amend The Highway Traffic Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Part II of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, sections 2 to 7, is further amended <sup>Part II
(ss. 6-12),</sup> ~~amended~~ by striking out the heading preceding section 6 and inserting in lieu thereof "PERMITS", and by adding thereto the following section:

5a. In this Part,

Interpre-
tation

- (a) "number", when used in relation to a permit or plate, means a number or a combination of letters and numbers, and "numbered", when so used, means bearing a number or a combination of letters and numbers;
- (b) "permit" means a permit issued under subsection 3 of section 6;
- (c) "validate" means render in force for the period of time prescribed by the regulations, and "validation" and "validated" have corresponding meanings.

- 2.—(1) Subsections 1 and 3 of section 6 of the said Act, as ^{s. 6 (1, 3),} ~~re-enacted~~ amended by the Statutes of Ontario, 1973, chapter 45, section 2, are repealed and the following substituted therefor:

- (1) The owner of a motor vehicle or trailer shall not,
 - (a) drive the motor vehicle;
 - (b) cause or permit the motor vehicle to be driven;
 - (c) draw the trailer; or
- Permit and
number
plates
required

(d) cause or permit the trailer to be drawn,

on a highway except under the authority of a permit for the motor vehicle or trailer issued or validated under subsection 3.

**Issuance
or validation
of permits
and number
plates**

(3) Upon the application of the owner of a motor vehicle or trailer and upon payment of the fee prescribed by the regulations, the Ministry or any person authorized by the Minister shall,

(a) issue for the motor vehicle or trailer a numbered permit and a number plate or number plates, in accordance with the regulations, bearing the number of the permit; or

(b) validate the permit issued for the motor vehicle or trailer and provide such evidence of the validation for display upon the motor vehicle or trailer as may be prescribed by the regulations.

Records

(3a) The Ministry shall maintain,

(a) a numerical index record of all permits issued and in force under this section; and

(b) an alphabetical index record of the names and addresses of all persons to whom permits that are in force have been issued.

**Effective
term of
permit**

(3b) A permit that is issued or validated is in force during the period of time prescribed by the regulations.

**s. 6(4),
amended**

(2) Subsection 4 of the said section 6, as amended by the Statutes of Ontario, 1973, chapter 45, section 2, is further amended by striking out "accept the registration of, or" in the first and second lines and inserting in lieu thereof "issue or validate or may".

(3) Subsection 7 of the said section 6 is repealed and the following substituted therefor:

**Regulations
re permits
and number
plates**

(7) The Lieutenant Governor in Council may make regulations respecting any matter ancillary to the provisions of this Part with respect to permits and number plates and in particular,

(a) prescribing forms for the purposes of this section and requiring their use;

- (b) respecting the issuance and validation of permits and the issuance of number plates;
- (c) prescribing the period of time during which permits shall be in force that are issued or validated for motor vehicles or trailers or any class or type of either of them;
- (d) prescribing fees for the issuance, validation and replacement of permits and number plates and of evidence of validation of permits;
- (e) governing the method of validating permits and the form of and manner of affixing, displaying or showing evidence of the validation of permits on motor vehicles and trailers;
- (f) respecting permits and number plates for and the operation of motor vehicles or trailers owned by manufacturers or dealers and not kept by them for private use.

3.—(1) Subsection 2 of section 7 of the said Act is repealed^{s. 7(2), re-enacted} and the following substituted therefor:

- (2) Where an owner changes his address as stated in an application for a permit or for the validation of a permit or in a previous notice sent or filed under this subsection, he shall within six days send by registered mail to or file with the Ministry notice of his new address.
 - (2) Subsection 3 of the said section 7 is amended by striking^{s. 7(3), amended} out “registration of” in the eleventh line and inserting in lieu thereof “the issuance, validation or transfer of a permit for”.
- 4.** Section 8 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 3, is repealed and the following substituted therefor:

8.—(1) The owner of a motor vehicle shall not drive the motor vehicle or cause or permit it to be driven on a highway unless,

- (a) the number plate or number plates issued in accordance with the regulations and showing the number of a permit that is issued by the Ministry or a person authorized by the Minister and in force for the motor vehicle are displayed on the motor vehicle in the manner prescribed by the regulations; and

(b) where the permit for the motor vehicle has been validated, there is affixed to the motor vehicle in the form and manner prescribed by the regulations evidence of the validation of the permit.

Number plate on trailer

(2) The owner of a trailer shall not draw the trailer or cause or permit it to be drawn on a highway unless,

(a) there is attached to and exposed on the back thereof a number plate furnished by the Ministry or a person authorized by the Minister showing in plain figures the number of a permit issued and in force for the trailer; and

(b) where the permit for the trailer has been validated, there is affixed to the trailer in the form and manner prescribed by the regulations evidence of the validation of the permit.

s. 9(1),
amended

5. Subsection 1 of section 9 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 4, is further amended by striking out "or" at the end of clause *c*, by adding "or" at the end of clause *d* and by adding thereto the following clause:

(e) where the permit for a motor vehicle or trailer is validated or is required to be validated, fails to display on the motor vehicle or trailer in the form and manner prescribed by the regulations evidence of the validation of the permit,

s. 11,
re-enacted

6. Section 11 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 6, is repealed and the following substituted therefor:

Improper
number
plate

11. Where a peace officer has reason to believe that,

(a) a number plate attached to a motor vehicle or trailer,

(i) was not furnished by the Ministry or a person authorized by the Minister for the motor vehicle or trailer, or

(ii) although furnished by the Ministry or a person authorized by the Minister for the motor vehicle or trailer, was obtained by false pretences; or

(b) evidence that is displayed on a motor vehicle or trailer of the validation of a permit,

- (i) was not furnished by the Ministry or a person authorized by the Minister in respect of the motor vehicle or trailer on which the evidence is displayed, or
- (ii) although furnished by the Ministry or a person authorized by the Minister in respect of the motor vehicle or trailer on which the evidence is displayed, was obtained by false pretences,

the peace officer may take possession of the number plate attached to the motor vehicle or trailer and retain it until the facts as to the use or furnishing of the number plate or the evidence of validation of the permit for the motor vehicle or trailer have been determined.

- 7.—(1) Subsection 1 of section 12 of the said Act is amended <sup>s. 12 (1),
amended</sup> by striking out “registered under the laws of and owned by residents of Ontario” in the ninth and tenth lines and inserting in lieu therof “owned by residents of Ontario for which permits are issued and in force under this Act and the regulations”.
- (2) Subsection 2 of the said section 12 is amended by <sup>s. 12 (2),
amended</sup> striking out “registered under the laws of and owned by residents of Ontario” in the sixth line and inserting in lieu thereof “owned by residents of Ontario for which permits are issued and in force under this Act and the regulations”.
- (3) Subsection 3 of the said section 12 is amended by <sup>s. 12 (3),
amended</sup> striking out “registration” in the second line and inserting in lieu thereof “the provisions of sections 6 and 8”.

8. The said Act is amended by adding thereto the following <sup>s. 152a,
enacted</sup> section:

152a.—(1) In this section,

Interpre-
tation

- (a) “designated” means designated by the regulations;
- (b) “driver improvement program” means a course of instruction for the improvement of the knowledge and attitudes as drivers of persons who hold licences to drive motor vehicles on a highway;
- (c) “justice” means a justice of the peace or a provincial judge;

- (d) "prescribed" means prescribed by the regulations;
- (e) "regulations" means the regulations made under subsection 3.

Driver improvement program
R.S.O. 1970,
c. 450

Regulations

- (2) Notwithstanding anything in *The Summary Convictions Act*, where in a designated municipality a justice convicts a person of a prescribed offence and the person, on the recommendation of the justice, attends and successfully completes a driver improvement program conducted by the Ministry, the justice may impose a lesser fine than the fine otherwise provided for by this Act or may order that no fine shall be imposed upon the person in respect of the offence.

- (3) The Lieutenant Governor in Council may make regulations,

- (a) designating municipalities as areas in which driver improvement programs may be conducted by the Ministry in conjunction with the adjudication of offences under this Act;
- (b) prescribing the offences under this Act in conjunction with the adjudication of which driver improvement programs may be conducted by the Ministry.

Commencement

- 9.**—(1) This Act, except sections 1 to 7, comes into force on the day it receives Royal Assent.

Idem

- (2) Sections 1 to 7 come into force on the 1st day of September, 1974.

Short title

- 10.** This Act may be cited as *The Highway Traffic Amendment Act, 1974*.

An Act to amend
The Highway Traffic Act

1st Reading

June 18th, 1974

2nd Reading

June 25th, 1974

3rd Reading

June 25th, 1974

THE HON. J. R. RHODES
Minister of Transportation
and Communications

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XB
-B 56

Government
Publications

BILL 109

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

**An Act to amend The Regional Municipality of
Ottawa-Carleton Act**

THE HON. T. L. WELLS
Minister of Education



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The amendment provides for the division of the Ottawa school division into two parts for the purpose of the election of trustees by the public school electors. At present these trustees are elected by a general vote of the whole school division.

BILL 109**1974**

**An Act to amend The Regional Municipality
of Ottawa-Carleton Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 119 of *The Regional Municipality of Ottawa-Carleton Act*, being chapter 407 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(3) Twelve members of the Ottawa Board shall be elected by the public school electors of the school division as follows,

(a) six members by a general vote of the public school electors in the City of Vanier, the Village of Rockcliffe Park and such wards of the City of Ottawa as the Ottawa Board determines; and

(b) six members by a general vote of the public school electors in the wards of the City of Ottawa not included in clause *a*,

and the Ottawa Board shall, by resolution, determine from time to time the wards of the City of Ottawa that shall be included with the City of Vanier and the Village of Rockcliffe Park for the purposes of clause *a* and such a resolution shall remain in force until repealed by the Ottawa Board.

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. This Act may be cited as *The Regional Municipality of Ottawa-Carleton Amendment Act, 1974*. Short title

An Act to amend
The Regional Municipality of
Ottawa-Carleton Act

1st Reading

June 20th, 1974

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Education

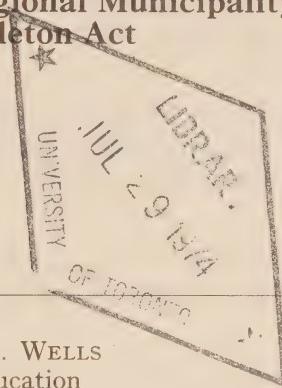
(*Government Bill*)

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BILL 109

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Regional Municipality of
Ottawa-Carleton Act



THE HON. T. L. WELLS
Minister of Education

TORONTO

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BILL 109**1974**

**An Act to amend The Regional Municipality
of Ottawa-Carleton Act**

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1. Subsection 3 of section 119 of *The Regional Municipality of Ottawa-Carleton Act*, being chapter 407 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

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- (a) six members by a general vote of the public school electors in the City of Vanier, the Village of Rockcliffe Park and such wards of the City of Ottawa as the Ottawa Board determines; and
- (b) six members by a general vote of the public school electors in the wards of the City of Ottawa not included in clause *a*,

and the Ottawa Board shall, by resolution, determine from time to time the wards of the City of Ottawa that shall be included with the City of Vanier and the Village of Rockcliffe Park for the purposes of clause *a* and such a resolution shall remain in force until repealed by the Ottawa Board.

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. This Act may be cited as *The Regional Municipality of Ottawa-Carleton Amendment Act, 1974*. Short title

An Act to amend
The Regional Municipality of
Ottawa-Carleton Act



1st Reading

June 20th, 1974

2nd Reading

June 27th, 1974

3rd Reading

June 27th, 1974

THE HON. T. L. WELLS
Minister of Education

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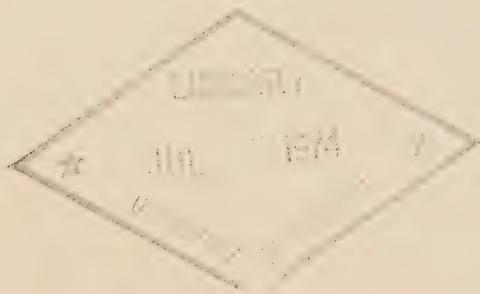
BILL 110

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Lord's Day (Ontario) Act

THE HON. R. WELCH
Attorney General



TORONTO

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EXPLANATORY NOTE

The present section 6 permits agricultural exhibitions on Sundays where the municipality has so decided by by-law but they can not be open for admission before 1.30 p.m.

The amendment permits such exhibitions to open at 12.00 noon.

BILL 110**1974**

**An Act to amend
The Lord's Day (Ontario) Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 6 of *The Lord's Day (Ontario) Act*,^{s. 6 (3), amended} being chapter 259 of the Revised Statutes of Ontario, 1970, is amended by striking out "1.30 o'clock in the afternoon" in the second and third lines and inserting in lieu thereof "12.00 o'clock noon".
2. This Act comes into force on the day it receives Royal Assent. ^{Commencement}
3. This Act may be cited as *The Lord's Day (Ontario) Amendment Act, 1974.* ^{Short title}

An Act to amend
The Lord's Day (Ontario) Act

1st Reading

June 20th, 1974

2nd Reading

3rd Reading

THE HON. R. WELCH
Attorney General

(*Government Bill*)

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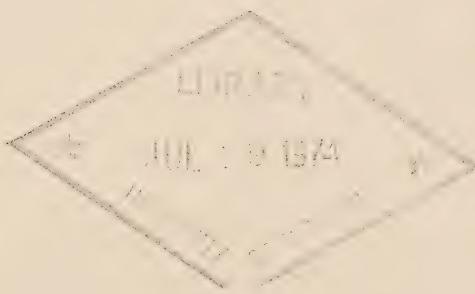
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BILL 110

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Lord's Day (Ontario) Act

THE HON. R. WELCH
Attorney General



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 110**1974**

**An Act to amend
The Lord's Day (Ontario) Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 6 of *The Lord's Day (Ontario) Act*,^{s. 6 (3), amended} being chapter 259 of the Revised Statutes of Ontario, 1970, is amended by striking out "1.30 o'clock in the afternoon" in the second and third lines and inserting in lieu thereof "12.00 o'clock noon".
2. This Act comes into force on the day it receives Royal Assent. ^{Commencement}
3. This Act may be cited as *The Lord's Day (Ontario) Amendment*^{Short title} *Act, 1974.*

BILL 110

An Act to amend
The Lord's Day (Ontario) Act

1st Reading

June 20th, 1974

2nd Reading

June 26th, 1974

3rd Reading

June 26th, 1974

THE HON. R. WELCH
Attorney General

XB

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Mining Tax Act, 1972

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The main features of the Bill are as follows:

1. At present, tax is payable at the rate of 15 per cent of the total profit of a mine where the profit exceeds \$50,000 in a taxation year.

The proposed new tax structure is as follows:

Profit in Taxation Year	Tax (Per Cent)		
\$100,000 or less	No tax		
Above	Up to		
\$	\$		
100,000	—	1,000,000	15
1,000,000	—	10,000,000	20
10,000,000	—	20,000,000	25
20,000,000	—	30,000,000	30
30,000,000	—	40,000,000	35
Over \$40,000,000			40

2. The Act now provides that all mines operated by and the profits of which accrue to the same person shall be deemed to be one mine for the purpose of determining the amount of tax payable.

The Bill excepts from that provision a mine brought into operation for the first time after the 9th day of April, 1974.

3. The Bill authorizes the Minister to direct that two or more persons operating or controlling mines be deemed to be associated persons where he is satisfied that their separate existence is not solely for the purpose of the most effective conduct of their business and that one of the reasons therefor is to reduce the amount of tax payable.

All mines operated by associated persons shall be deemed to be one mine operated by one person for the purpose of determining tax.

Provision is made for an appeal to the courts from a direction of the Minister.

4. The Bill provides for a depreciation allowance of up to 30 per cent for new plant, equipment, machinery and buildings acquired after the 9th day of April, 1974.

Exploration and development expenditures incurred in Ontario after the 9th day of April, 1974 and prior to the commencement of production will now be permitted as a deduction in computing profit.

5. The Bill contains transitional provisions to provide for the determination of the amount of tax payable in respect of a taxation year that begins before the 9th day of April, 1974 but ends after that date.

BILL 111**1974**

An Act to amend The Mining Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Mining Tax Act, 1972*, being chapter s.1.^{s.1, amended} 140, is amended by relettering clause *a* as clause *aa* and by adding thereto the following clause:

(*a*) "associated persons" means associated persons as determined under subsection 2*b* of section 3.

2.—(1) Subsection 1 of section 3 of the said Act is repealed<sup>s.3(1)
re-enacted</sup> and the following substituted therefor:

(1) Every mine the profit of which as determined under<sup>Profit
tax</sup> this section exceeds \$100,000 in a taxation year, is liable for and the owner, holder, tenant, occupier or operator of the mine shall pay a tax of,

(*a*) 15 per cent on the excess of profit above \$100,000 and up to \$1,000,000; and

(*b*) 20 per cent on the excess of profit above \$1,000,000 and up to \$10,000,000; and

(*c*) 25 per cent on the excess of profit above \$10,000,000 and up to \$20,000,000; and

(*d*) 30 per cent on the excess of profit above \$20,000,000 and up to \$30,000,000; and

(*e*) 35 per cent on the excess of profit above \$30,000,000 and up to \$40,000,000; and

(*f*) 40 per cent on the excess of profit above \$40,000,000.

(2) Subsection 2 of the said section 3 is repealed and<sup>s.3(2),
re-enacted</sup> the following substituted therefor:

Mines operated together (2) For the purpose of this section and section 6, all mines that are operated by, and the profits of which accrue to, the same person or associated persons shall, for the purpose of determining the amount of tax payable under this Act, be deemed to be and be dealt with as one and the same mine and not as separate mines.

Exception (2a) Subsection 2 does not apply to a mine brought into active operation for the first time after the 9th day of April, 1974.

Associated persons (2b) Where two or more mines are worked, operated, managed, or controlled by two or more persons and the Minister is satisfied, notwithstanding the separate existence of such persons,

(a) that their separate existence in a taxation year is not solely for the purpose of carrying out the business of the different persons in the most effective manner; and

(b) that one of the reasons for their separate existence is to reduced the amount of taxes that would be otherwise payable under this section,

the two or more different persons shall, if the Minister so directs, be deemed to be associated persons for the purpose of subsection 2 and section 6.

Notice (2c) Written notice of a direction by the Minister under subsection 2b shall be mailed or delivered forthwith to the persons deemed to be associated persons.

Appeal (2d) Where two or more different persons are deemed to be associated persons by direction of the Minister under subsection 2b, any such person or persons may, within thirty days after the day on which notice of the making of the direction is mailed, appeal the direction to a judge of the Supreme Court in accordance with the practice and procedures of that Court and an appeal lies to the Court of Appeal from a decision of a judge of the Supreme Court, provided that notice of such appeal is delivered or served by the party appealing within fifteen days after the making of the decision that is appealed, and the procedure upon and governing such appeal to the Court of Appeal shall be, as far as may be, the same as upon an appeal to the Court of Appeal in any civil action, but leave to appeal is not necessary.

s. 3 (3) (l),
re-enacted (3) Clause l of subsection 3 of the said section 3 is repealed and the following substituted therefor:

(l) notwithstanding clause *k*, an allowance for depreciation in each taxation year not exceeding 30 per cent of the cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings acquired after the 9th day of April, 1974 that has not been used previously in mining operations until the full cost thereof has been allowed as an expense under this clause, but where the mining plant, machinery, equipment and buildings or any part thereof have been disposed of by the operator, the proceeds from such disposal shall be applied to reduce the cost to such person of any additions thereto made in the taxation year, and where such proceeds exceed the cost of such additions, the excess shall be applied to reduce the balance remaining to be depreciated of such assets acquired in previous years, and where no such balance remains to be depreciated, the excess shall be applied to reduce deductions otherwise allowable under this subsection, and where any such disposal is made at any time after the close of mining operations, the tax for the last taxation year shall be reassessed for the purpose of depreciation recovery where applicable.

(4) Clause *n* of subsection 3 of the said section 3 is^{s. 3(3)(n).}
re-enacted repealed and the following substituted therefor:

(n) notwithstanding anything in this subsection, at least 15 per cent and up to 100 per cent of,

(i) the exploration and development expenditures incurred in Ontario after the 9th day of April, 1974 and prior to the date of commencement of production, with the object of finding, testing or opening up deposits of mineral substances, and

(ii) the exploration and development expenditures, incurred in Ontario on and after the date of commencement of production with the object of finding, testing or opening up deposits of mineral substances,

if the following conditions are met:

1. The expenditure has not at any time in a previous taxation year been allowed as an expense or deduction under this Act.

2. The expenditure is approved by the mine assessor.
3. The expenditure does not include money paid for the purchase or acquisition of an option to purchase or in the acquisition of the right to mine or an option on the right to mine such deposits.
4. The expenditure was made or borne by the operator of the mine liable to taxation.
5. Separate accounts of the expenditure are kept and furnished to the mine assessor in reasonable detail with the return required under section 6.

s. 3 (4) (e),
repealed

- (5) Clause *e* of subsection 4 of the said section 3 is repealed.

Saving,
1972, c. 140

- 3.** Notwithstanding the repeal and re-enactment of clause *n* of subsection 3 of section 3 and the repeal of clause *e* of subsection 4 of section 3 of *The Mining Tax Act, 1972*, by subsection 4 and subsection 5, respectively, of section 2 of this Act, the provisions of the said clauses as they existed on the 9th day of April, 1974, shall continue to apply to all mines which commenced production after the 1st day of January, 1965 and on or before the 9th day of April, 1974.
- 4.** Where a taxation year ends after the 9th day of April, 1974 but commences before that date, the amount of tax payable shall be calculated on a *pro rata* basis by,

- (a) determining the tax payable for the entire taxation year under section 3 of *The Mining Tax Act, 1972*, as amended by section 2 of this Act;
- (b) determining the proportion of the amount of tax payable under clause *a* that the number of days of the taxation year that follow the 9th day of April, 1974 bears to the total number of days of that taxation year;
- (c) determining the tax payable for the entire said taxation year under section 3 of *The Mining Tax Act, 1972*, as it existed on the 9th day of April, 1974;
- (d) determining the proportion of the amount of the tax payable under clause *c* that the number of

days of the taxation year that fall before the 10th day of April, 1974 bears to the total number of days of that taxation year;

- (e) determining the aggregate of the amounts determined under clauses *b* and *d* in respect of the tax payable for the taxation year.
- 5.** This Act shall be deemed to have come into force on the ^{Commencement} 10th day of April, 1974.
- 6.** This Act may be cited as *The Mining Tax Amendment* ^{Short title} *Act, 1974.*

An Act to amend
The Mining Tax Act, 1972

1st Reading

June 20th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

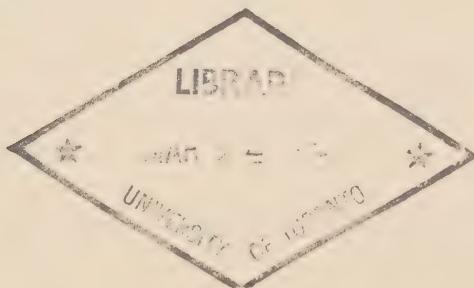
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An Act to amend The Mining Tax Act, 1972

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

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1860

BILL 111**1974****An Act to amend The Mining Tax Act, 1972**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 1 of *The Mining Tax Act, 1972*, being chapter ^{s.1, amended} 140, is amended by relettering clause *a* as clause *aa* and by adding thereto the following clause:
 - (a) “associated persons” means associated persons as determined under subsection 2*b* of section 3.
- (2) Clause *h* of the said section 1 is repealed and the following substituted therefor:
 - (h) “output” when used in reference to a mine means the mineral substances raised, taken or obtained from any mine in Ontario, if those mineral substances,
 - (i) are sold as such, or
 - (ii) are not sold as such but are fed into a treatment plant at any mill, smelter or refinery and the product of their treatment or partial treatment is sold.
- (3) The said section 1 is further amended by adding thereto ^{s.1, amended} the following clause:
 - (ia) “processing” means, with respect to mineral substances, any form of beneficiation, concentrating, smelting, refining or semi-fabricating, or any combination thereof.

- 2.—(1) Subsection 1 of section 3 of the said Act is repealed ^{s.3(1)} ^{re-enacted} and the following substituted therefor:

Profit
tax

(1) Every mine the profit of which as determined under this section exceeds \$100,000 in a taxation year, is liable for and the owner, holder, tenant, occupier or operator of the mine shall pay a tax of,

- (a) 15 per cent on the excess of profit above \$100,000 and up to \$1,000,000; and
- (b) 20 per cent on the excess of profit above \$1,000,000 and up to \$10,000,000; and
- (c) 25 per cent on the excess of profit above \$10,000,000 and up to \$20,000,000; and
- (d) 30 per cent on the excess of profit above \$20,000,000 and up to \$30,000,000; and
- (e) 35 per cent on the excess of profit above \$30,000,000 and up to \$40,000,000; and
- (f) 40 per cent on the excess of profit above \$40,000,000.

s. 3 (2).
re-enacted

(2) Subsection 2 of the said section 3 is repealed and the following substituted therefor:

Mines
operated
together

(2) For the purpose of this section and section 6, all mines that are operated by, and the profits of which accrue to, the same person or associated persons shall, for the purpose of determining the amount of tax payable under this Act, be deemed to be and be dealt with as one and the same mine and not as separate mines.

Exception

(2a) Subsection 2 does not apply to a mine brought into active operation for the first time after the 9th day of April, 1974.

Associated
persons

(2b) Where two or more mines are worked, operated, managed, or controlled by two or more persons and the Minister is satisfied, notwithstanding the separate existence of such persons,

- (a) that their separate existence in a taxation year is not solely for the purpose of carrying out the business of the different persons in the most effective manner; and
- (b) that one of the reasons for their separate existence is to reduce the amount of taxes that would be otherwise payable under this section,

the two or more different persons shall, if the Minister so directs, be deemed to be associated persons for the purpose of subsection 2 and section 6.

(2c) Written notice of a direction by the Minister under ^{Notice} subsection 2b shall be mailed or delivered forthwith to the persons deemed to be associated persons.

(2d) Where two or more different persons are deemed to be ^{Appeal} associated persons by direction of the Minister under subsection 2b, any such person or persons may, within thirty days after the day on which notice of the making of the direction is mailed or delivered, appeal the direction to a judge of the Supreme Court in accordance with the practice and procedures of that Court and an appeal lies to the Court of Appeal from a decision of a judge of the Supreme Court, provided that notice of such appeal is delivered or served by the party appealing within fifteen days after the making of the decision that is appealed, and the procedure upon and governing such appeal to the Court of Appeal shall be, as far as may be, the same as upon an appeal to the Court of Appeal in any civil action, but leave to appeal is not necessary.

(3) Clause b of subsection 3 of the said section 3 is repealed <sup>s.3(3)(b),
re-enacted</sup> and the following substituted therefor:

(b) where the mineral substances or a part thereof are not sold as such, the amount of the actual market value at the pit's mouth of the mineral substances raised, taken or gained from the mine that are fed into a treatment plant at any mill, smelter or refinery and the product thereof is sold in the taxation year; or

(4) Clause c of subsection 3 of the said section 3 is repealed <sup>s.3(3)(c),
re-enacted</sup> and the following substituted therefor:

(c) if there is no means of ascertaining the actual market value at the pit's mouth of the mineral substances referred to in clause b, the amount at which the mine assessor appraises the value of such mineral substances, provided that the mine assessor in appraising such value shall deduct,

(i) the processing costs incurred as prescribed or determined by the regulations, and

- (ii) an allowance for profit in respect of processing at a rate or rates prescribed by the regulations or determined by the mine assessor,

from the proceeds of the processed mineral substances sold during the taxation year,

s. 3 (3) (d),
re-enacted

- (5) Clause *d* of subsection 3 of the said section 3 is repealed and the following substituted therefor:

- (*d*) the expenses incurred in respect of scientific research conducted in Canada and related to mining operations in Ontario.

s. 3 (3) (l),
re-enacted

- (6) Clause *l* of subsection 3 of the said section 3 is repealed and the following substituted therefor:

- (*l*) notwithstanding clause *k*, an allowance for depreciation in each taxation year not exceeding 30 per cent of the cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings acquired after the 9th day of April, 1974 that has not been used previously in mining operations until the full cost thereof has been allowed as an expense under this clause, but where the mining plant, machinery, equipment and buildings or any part thereof have been disposed of by the operator, the proceeds from such disposal shall be applied to reduce the cost to such person of any additions thereto made in the taxation year, and where such proceeds exceed the cost of such additions, the excess shall be applied to reduce the balance remaining to be depreciated of such assets acquired in previous years, and where no such balance remains to be depreciated, the excess shall be applied to reduce deductions otherwise allowable under this subsection, and where any such disposal is made at any time after the close of mining operations, the tax for the last taxation year shall be reassessed for the purpose of depreciation recovery where applicable.

s. 3 (3) (n),
re-enacted

- (7) Clause *n* of subsection 3 of the said section 3 is repealed and the following substituted therefor:

- (*n*) notwithstanding anything in this subsection, at least 15 per cent and up to 100 per cent of,

- (i) the exploration and development expenditures incurred in Ontario after the 9th day of April, 1974 and prior to the date of commencement of production, with the object of finding, testing or opening up deposits of mineral substances, and
- (ii) the exploration and development expenditures, incurred in Ontario on and after the date of commencement of production with the object of finding, testing or opening up deposits of mineral substances,

if the following conditions are met:

1. The expenditure has not at any time in a previous taxation year been allowed as an expense or deduction under this Act.
2. The expenditure is approved by the mine assessor.
3. The expenditure does not include money paid for the purchase or acquisition of an option to purchase or in the acquisition of the right to mine or an option on the right to mine such deposits.
4. The expenditure was made or borne by the operator of the mine liable to taxation.
5. Separate accounts of the expenditure are kept and furnished to the mine assessor in reasonable detail with the return required under section 6.

(8) Clause *e* of subsection 4 of the said section 3 is ^{s. 3(4)(e),} ~~repealed~~.

3.—(1) Section 23 of the said Act is amended by adding thereto ^{s. 23,} ~~amended~~ the following clauses:

- (ca) prescribing what shall be taken into consideration in determining if and at what point in time a mine is brought into active operation and providing for the making of such determination;
- (cb) prescribing or determining anything that, by this Act, is to be prescribed or determined by the regulations.

s. 23,
amended

- (2) The said section 23 is further amended by adding thereto the following subsections:

Regulation
re value of
output at
pit's mouth

(2) A regulation under clause *c* of subsection 1 may provide that no amounts may be deducted for processing costs or that no allowance or different rates of allowance for profit in respect of processing may be deducted in calculating the value of output at the pit's mouth in different areas prescribed in the regulation.

Regulation
may be
retroactive

(3) A regulation made under subsection 1 may be made effective retroactively to a date not earlier than the 1st day of January, 1974.

Saving,
1972, c. 140

- 4.** Notwithstanding the repeal and re-enactment of clause *n* of subsection 3 of section 3 and the repeal of clause *e* of subsection 4 of section 3 of *The Mining Tax Act, 1972*, by subsection 7 and subsection 8, respectively, of section 2 of this Act, the provisions of the said clauses as they existed on the 9th day of April, 1974, shall continue to apply to all mines which commenced production after the 1st day of January, 1965 and on or before the 9th day of April, 1974.

Determina-
tion of tax

- 5.** Where a taxation year ends after the 9th day of April, 1974 but commences before that date, the amount of tax payable shall be calculated on a *pro rata* basis by,

(a) determining the tax payable for the entire taxation year under section 3 of *The Mining Tax Act, 1972*, as amended by section 2 of this Act;

(b) determining the proportion of the amount of tax payable under clause *a* that the number of days of the taxation year that follow the 9th day of April, 1974 bears to the total number of days of that taxation year;

(c) determining the tax payable for the entire said taxation year under section 3 of *The Mining Tax Act, 1972*, as it existed on the 9th day of April, 1974;

(d) determining the proportion of the amount of the tax payable under clause *c* that the number of days of the taxation year that fall before the 10th day of April, 1974 bears to the total number of days of that taxation year;

- (e) determining the aggregate of the amounts determined under clauses *b* and *d* in respect of the tax payable for the taxation year.
- 6. This Act shall be deemed to have come into force on the ^{Commencement} 10th day of April, 1974.
- 7. This Act may be cited as *The Mining Tax Amendment* ^{Short title} *Act, 1974.*

An Act to amend
The Mining Tax Act, 1972

1st Reading

June 20th, 1974

2nd Reading

February 11th, 1975

3rd Reading

February 14th, 1975

THE HON. W. D. MCKEEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

CAZON
XB

Ontario Legislative Assembly
Government Publications

BILL 112

Government Bill

-B56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to confirm Tax Sales

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTIONS 1 AND 2 of the Bill confirm tax sales and the registration of tax arrears certificates held or registered prior to the 1st day of July, 1973.

BILL 112**1974****An Act to confirm Tax Sales**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. All sales of land held prior to the 1st day of July, 1973, and purporting to have been made for arrears of taxes payable to a municipal corporation, or to the school board of a school section in an unorganized township or in unsurveyed territory, with respect to the land so sold, are confirmed and declared to be legal, valid and binding, and every conveyance of land so sold purporting to have been executed as required by *The Assessment Act* or *The Municipal Act* and purporting to convey such land to the purchaser thereof, his heirs and assigns, or its successors and assigns, is also confirmed and declared to be legal, valid and binding and shall be deemed to have had the effect of vesting such land in the purchaser, his heirs, assigns or legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold, clear of and free from all right and interest of the owner thereof at the time of such sale and clear of and free from all charges and encumbrances thereon and dower therein except taxes accruing after those for non-payment of which such land was so sold.

2. Every tax arrears certificate that was registered prior to the 1st day of July, 1973, that purports to have been registered pursuant to *The Municipal Affairs Act* and that is now outstanding, and the registration thereof, are confirmed and declared to be legal, valid and binding, and shall be deemed to have had the effect of vesting on the day of registration the land therein described in the corporation of the municipality in which the land is situate, its successors or assigns, in fee simple, clear of and free from all other estate, right, title or interest, and of all charges or encumbrances thereon and dower therein.

Registered
redemption
certificates
confirmed
R.S.O. 1970,
c. 118

3. Every redemption certificate registered prior to the day this Act comes into force and purporting to have been registered pursuant to *The Municipal Affairs Act*, and the registration thereof, are hereby confirmed and declared to be legal, valid and binding, and shall be deemed to have had the effect of vesting in the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, his original estate, right, title or interest in the land described therein, and of cancelling the tax arrears certificate registered with respect to such land.

Registered
vacating
certificates
confirmed

4. Every vacating certificate registered prior to the day this Act comes into force and purporting to have been registered pursuant to *The Municipal Affairs Act*, and the registration thereof, are hereby confirmed and declared to be legal, valid and binding, and shall be deemed to have had the effect of vesting in the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, his original estate, right, title and interest in the land described therein.

By-laws
declaring
lands
required for
municipal
purposes
confirmed

5. Where any land has become vested in a municipality as a result of tax arrears procedures under any Act and such land has been declared by by-law of the municipality to be required for municipal purposes, such by-law is hereby confirmed and declared to be legal, valid and binding.

Pending
litigation
not affected

6. This Act shall not affect or prejudice any right of any person in any action, litigation or other proceeding now pending, and any such action, litigation or other proceeding may be continued and finally adjudicated in the same manner and to the same extent as if this Act had not been passed.

Saving as
to rights of
Crown

7. This Act shall not affect or defeat the Crown with respect to its interest in any land which, or any interest in which, has been sold for taxes, or against which, or any interest in which, a tax arrears certificate has been registered.

Commencement

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. This Act may be cited as *The Tax Sales Confirmation Act, 1974*.

SECTIONS 3 AND 4 confirm redemption and vacating certificates registered prior to the day the Act comes into force.

SECTION 5 confirms by-laws passed by municipalities declaring lands vested in them as a result of tax arrears procedures to be required for municipal purposes.

SECTION 6 provides that pending actions are not affected and SECTION 7 preserves the rights of the Crown in the lands sold for taxes or against which a tax arrears certificate has been registered.

BILL 112

An Act to confirm Tax Sales

1st Reading

June 20th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

BILL 112

CAZON

XB

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to confirm Tax Sales

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 112**1974****An Act to confirm Tax Sales**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. All sales of land held prior to the 1st day of July, 1973, and purporting to have been made for arrears of taxes payable to a municipal corporation, or to the school board of a school section in an unorganized township or in unsurveyed territory, with respect to the land so sold, are confirmed and declared to be legal, valid and binding, and every conveyance of land so sold purporting to have been executed as required by *The Assessment Act* or *The Municipal Act* and purporting to convey such land to the purchaser thereof, his heirs and assigns, or its successors and assigns, is also confirmed and declared to be legal, valid and binding and shall be deemed to have had the effect of vesting such land in the purchaser, his heirs, assigns or legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold, clear of and free from all right and interest of the owner thereof at the time of such sale and clear of and free from all charges and encumbrances thereon and dower therein except taxes accruing after those for non-payment of which such land was so sold.

Tax sales
and tax
deeds
confirmed

R.S.O. 1970,
cc. 32, 284

2. Every tax arrears certificate that was registered prior to the 1st day of July, 1973, that purports to have been registered pursuant to *The Municipal Affairs Act* and that is now outstanding, and the registration thereof, are confirmed and declared to be legal, valid and binding, and shall be deemed to have had the effect of vesting on the day of registration the land therein described in the corporation of the municipality in which the land is situate, its successors or assigns, in fee simple, clear of and free from all other estate, right, title or interest, and of all charges or encumbrances thereon and dower therein.

Registered
tax arrears
certificates
confirmed
R.S.O. 1970,
c. 118

Registered
redemption
certificates
confirmed
R.S.O. 1970.
c. 118

3. Every redemption certificate registered prior to the day this Act comes into force and purporting to have been registered pursuant to *The Municipal Affairs Act*, and the registration thereof, are hereby confirmed and declared to be legal, valid and binding, and shall be deemed to have had the effect of vesting in the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, his original estate, right, title or interest in the land described therein, and of cancelling the tax arrears certificate registered with respect to such land.

Registered
vacating
certificates
confirmed

4. Every vacating certificate registered prior to the day this Act comes into force and purporting to have been registered pursuant to *The Municipal Affairs Act*, and the registration thereof, are hereby confirmed and declared to be legal, valid and binding, and shall be deemed to have had the effect of vesting in the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, his original estate, right, title and interest in the land described therein.

By-laws
declaring
lands
required for
municipal
purposes
confirmed

5. Where any land has become vested in a municipality as a result of tax arrears procedures under any Act and such land has been declared by by-law of the municipality to be required for municipal purposes, such by-law is hereby confirmed and declared to be legal, valid and binding.

Pending
litigation
not affected

6. This Act shall not affect or prejudice any right of any person in any action, litigation or other proceeding now pending, and any such action, litigation or other proceeding may be continued and finally adjudicated in the same manner and to the same extent as if this Act had not been passed.

Saving as
to rights of
Crown

7. This Act shall not affect or defeat the Crown with respect to its interest in any land which, or any interest in which, has been sold for taxes, or against which, or any interest in which, a tax arrears certificate has been registered.

Commencement

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. This Act may be cited as *The Tax Sales Confirmation Act, 1974.*

BILL 112

An Act to confirm Tax Sales

1st Reading

June 20th, 1974

2nd Reading

December 3rd, 1974

3rd Reading

December 3rd, 1974

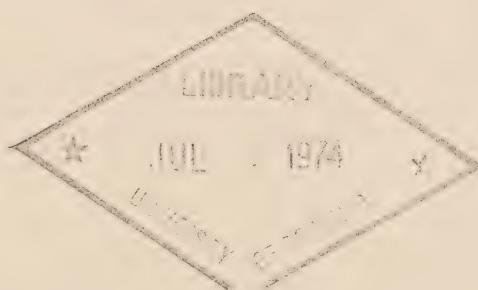
THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

XB
-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Municipal Affairs Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



EXPLANATORY NOTES

SECTION 1. The clause presently provides that when the tax arrears procedures of the Act apply to a municipality rather than the tax sales procedures of *The Municipal Act*, then the use or disposition of land vested in the municipality under the tax arrears procedures are subject to the approval of the Ministry; the amendment makes it clear the approval will be given if the municipality has complied with the procedural provisions of the Act.

SECTION 2. The subsection presently requires the treasurer of a municipality to mail notice of the registration of a tax arrears certificate to the assessed owner of the affected land and to other interested persons and to include in the notice the last day for redemption; the amendment specifies that if the land is not redeemed within the period for redemption, the municipality is free to sell or convey the land or declare it required for municipal purposes, without further notice to the owner.

SECTION 3. The sections being repealed permitted a municipality, in respect of lands against which a tax arrears certificate had been registered for ten or more years, to notify the owner and other interested persons that unless the lands were redeemed within six months, the right to do so would expire. The effect of the repeal is to permit lands to be redeemed at any time if the municipality has neither sold them nor declared them required for municipal purposes.

SECTION 4. Complementary to section 2 of the Bill by including in the notice of registration of a tax arrears certificate a statement that the lands may be sold, etc., by the municipality after the redemption period has expired, without further notice.

BILL 113

1974

An Act to amend The Municipal Affairs Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 12 of *The Municipal Affairs Act*, being chapter 118 of the Revised Statutes of Ontario, 1970, is amended by adding at the end thereof "which approval shall be granted if the Ministry is satisfied that the municipality has complied with the provisions of this Act".
2. Subsection 4 of section 47 of the said Act is amended by adding at the end thereof "and at the expiry of such period of redemption, the municipality may sell or convey the land or by by-law declare the land to be required for municipal purposes without further notice to any such party".
3. Subsections 2 and 3 of section 53 of the said Act are repealed.
4. Form 2 of the said Act is repealed and the following substituted therefor:

FORM 2

(*Section 47 (4)*)

NOTICE OF REGISTRATION OF TAX ARREARS CERTIFICATE

TAKE NOTICE, that, by virtue of *The Municipal Affairs Act*, section 47, a tax arrears certificate has been registered against the following lands, namely:

.....
.....

and by reason thereof the same are vested in and are the property of The

Corporation of the of (*naming the municipality*) subject only to your right of redemption of the same on or

before the day of, 19..., which is the last day for redemption.

AND TAKE FURTHER NOTICE, that, at the expiry of the redemption period, the municipality may sell or convey such land or by by-law declare such land to be required for municipal purposes without further notice to you.

Dated at this day of,
19...

.....
Treasurer

Commencement

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Municipal Affairs Amendment Act, 1974*.

BILL 113

An Act to amend
The Municipal Affairs Act

1st Reading

June 20th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

(*Government Bill*)

CA20N
XB

BILL 113

Government
Publications

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4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Municipal Affairs Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 113**1974**

An Act to amend The Municipal Affairs Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 12 of *The Municipal Affairs Act*, being chapter 118 of the Revised Statutes of Ontario, 1970, is amended by adding at the end thereof "which approval shall be granted if the Ministry is satisfied that the municipality has complied with the provisions of this Act".
2. Subsection 4 of section 47 of the said Act is amended by adding at the end thereof "and at the expiry of such period of redemption, the municipality may sell or convey the land or by by-law declare the land to be required for municipal purposes without further notice to any such party".
3. Subsections 2 and 3 of section 53 of the said Act are repealed.
4. Form 2 of the said Act is repealed and the following substituted therefor:

FORM 2

(Section 47 (4))

NOTICE OF REGISTRATION OF TAX ARREARS CERTIFICATE

TAKE NOTICE, that, by virtue of *The Municipal Affairs Act*, section 47, a tax arrears certificate has been registered against the following lands, namely:

.....
.....

and by reason thereof the same are vested in and are the property of The

Corporation of the of (*naming the municipality*) subject only to your right of redemption of the same on or before the day of, 19..., which is the last day for redemption.

AND TAKE FURTHER NOTICE, that, at the expiry of the redemption period, the municipality may sell or convey such land or by by-law declare such land to be required for municipal purposes without further notice to you.

Dated at this day of,
19...

.....
Treasurer

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.
6. This Act may be cited as *The Municipal Affairs Amendment Act, 1974*.

BILL 113

An Act to amend
The Municipal Affairs Act

1st Reading

June 20th, 1974

2nd Reading

December 3rd, 1974

3rd Reading

December 20th, 1974

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

CA20N

XB

-B 56

BILL 114

Private Member's Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to establish Matrimonial Property Rights

MR. BOUNSALL



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to recognize that marriage is an equal partnership and upon a divorce or nullity, the total value of the combined assets of the husband and wife acquired during the marriage shall be divided equally between them.

BILL 114**1974**

**An Act to establish
Matrimonial Property Rights**

WHEREAS marriage is a partnership in which both husband and wife work together as equals, and one spouse's contribution to the joint undertaking, in running the home and looking after the children is just as valuable as that of the other spouse in providing the home and supporting the family.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "child" means any child of the husband or wife or of both of them whether or not the husband and wife are married and "children" has a corresponding meaning.

2.—(1) Subject to subsection 2, upon a divorce or a nullity of a marriage, the total value of the combined assets of the husband and wife acquired during the marriage shall be equally divided between them.

(2) Except for the income produced or the capital appreciation from the gift or inheritance, the value of any gift or inheritance received by the husband or wife during the marriage shall not be included in their combined assets.

(3) Except where the husband and wife agree in writing, no child shall share in a division of assets upon a divorce or a nullity of a marriage.

3.—(1) Where the individual increase in the assets of a husband or wife is less than half of the total increase in assets of both the husband and wife during the marriage, the husband or wife, as the case may be, shall have a claim against the total assets of both of them acquired during the marriage.

Debts and liabilities deducted	(2) All unpaid debts and liabilities incurred during the marriage for the purpose of sustaining the marriage or any child shall be first deducted from the combined assets of the husband and wife when calculating a division of assets under subsection 1 of section 2.
Periodic payments	(3) Except where the immediate payment of a claim under subsection 1 would render impossible the successful continuation of a farm or business enterprise, provision for periodic payments may be made to a husband or wife, as the case may be, and such payments shall be equal in amount, at least yearly and over a period not to exceed three years from the date of the final decree of nullity or divorce.
Remarriage	(4) A payment under subsection 3 shall not be affected by the subsequent remarriage of the husband or wife.
Limitation on gifts	4. —(1) Except where a husband and wife agree, no husband or wife shall make a gift or gifts to another person or persons such that the total of the gift or gifts exceeds 3 per cent of the individual assets of the husband or wife, as the case may be.
Calculation of percentage	(2) For the purpose of calculating the percentage under subsection 1, the greatest value of the assets of the husband or wife during the one year period immediately prior to the commencement of the action for nullity or divorce shall be used.
Application to common-law union	5. Where a man and a woman hold themselves out as being man and wife and have lived together for a continuous period of at least six years without children or for a continuous period of at least two years where there are children, the provisions of this Act shall apply to the man and the woman as if they were husband and wife.
Commencement	6. This Act comes into force on the day it receives Royal Assent.
Short title	7. This Act may be cited as <i>The Matrimonial Property Rights Act, 1974</i> .

BILL 114

An Act to establish
Matrimonial Property Rights

1st Reading

June 20th, 1974

2nd Reading

3rd Reading

MR. BOUNSALL

(*Private Member's Bill*)

CAZON

XB

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

**An Act to establish the
Toronto Area Transit Operating Authority**

THE HON. J. R. RHODES
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill establishes the Toronto Area Transit Operating Authority and sets out its objects, powers and duties.

The Authority will have jurisdiction in the regional municipalities of Durham, Peel and York and The Municipality of Metropolitan Toronto and will be composed of the chairmen of the three regional councils and of the Metropolitan Council and a member who will be chairman of the Authority appointed by the Lieutenant Governor in Council. Provision is made for the chairmen of the regional councils of Halton and Hamilton-Wentworth to attend and participate in discussions at meetings of the Authority when matters directly affecting the transportation of passengers between their respective regional municipalities and the area of jurisdiction of the Authority are discussed.

The Authority has as its objects the design, establishment and operation of an inter-regional transit system, the co-ordination of the operations of the inter-regional transit systems and regional transit systems, and the provision of information, advice, design assistance and co-ordinating services to inter-regional transit systems and regional transit systems.

The Authority will assume administration of the commuter services operated by GO Transit and, subject to prior review by the Minister and with the approval of the Lieutenant Governor in Council, may prescribe fares to be charged by any inter-regional transit system.

Provision is made for the exclusion by regulations made by the Lieutenant Governor in Council of any method of transportation or any type of vehicle from the application of the Bill.

Regional transit systems are required to file their service schedules and tariffs of fares with the Authority. They are also required to file with the Authority a statement of any proposed change in, addition to, or deletion from the schedules or tariffs.

The Authority is given various powers in order to carry out its objects, including the power to acquire land, to acquire transit vehicles and to enter into agreements with the Crown or any individual, corporation, partnership or association.

**An Act to establish the
Toronto Area Transit Operating Authority**

HER MAJESTY by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:

1. In this Act

- a.** ~~the metropolitan area and the regional area composed of~~
 - i. the Regional Area as defined in The ~~Regional Municipality of Durham Act~~ 1973
 - ii. the Regional Area as defined in The ~~Regional Municipality of Peel Act~~ 1973
 - iii. the Regional Area as defined in The ~~Regional Municipality of York Act~~ 1973
 - iv. the Metropolitan Area as defined in The ~~Metropolitan Toronto Act~~ 1973
- b.** Authority means the Toronto Area Transit Operating Authority established under section 1
- c.** inter-regional transit system means a transit system that is principally operated
 - i. in more than one regional area; and
 - ii. within the area of jurisdiction of the Authority
- d.** land includes buildings or improvements on land, land covered with water and any estate, interest, right or easement in or over or affecting any of them
- e.** Minister means the Minister of Transportation and Communications
- f.** Ministry means the Ministry of Transportation and Communications

- | | |
|--|---|
| 1973, c. 78 | (g) "regional area" means a regional area as defined in |
| | (i) <i>The Regional Municipality of Durham Act, 1973,</i> |
| 1973, c. 60 | (ii) <i>The Regional Municipality of Peel Act, 1973,</i>
or |
| R.S.O. 1970,
c. 408 | (iii) <i>The Regional Municipality of York Act,</i> |
| R.S.O. 1970,
c. 295 | or the Metropolitan Area as defined in <i>The Municipality of Metropolitan Toronto Act;</i> |
| | (h) "regional transit system" means a transit system that is principally operated within a regional area; |
| | (i) "regulations" means the regulations made under this Act; |
| | (j) "transit system" means a system for the transportation of passengers. |
| Toronto
Area
Transit
Operating
Authority | 2. —(1) There is hereby established a corporation without share capital under the name of "Toronto Area Transit Operating Authority". |
| Membership | (2) The Authority shall be composed of five members as follows, |
| | (a) one member appointed by the Lieutenant Governor in Council, who shall be the chairman of the Authority; |
| | (b) the chairmen of the regional councils of the regional municipalities of Durham, Peel and York; and |
| | (c) the chairman of the Metropolitan Council of The Municipality of Metropolitan Toronto. |
| Term of
office of
chairman | (3) The member appointed by the Lieutenant Governor in Council shall hold office for a term of five years and until his successor is appointed. |
| Quorum | (4) Three members of the Authority constitute a quorum. |
| Vacancy | (5) In the event of a vacancy caused by the death, resignation or incapacity of the member of the Authority appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may appoint a person to hold office for the remainder of the term of such member. |
| Absence of
chairman | (6) When the chairman is absent from any meeting of the Authority, the members present at the meeting shall appoint from among them an acting chairman who, for the purposes of the meeting, has all the powers and shall perform all the duties of the chairman. |

(7) The Authority may pay those of its members who are ^{Remuneration} not officers in the public service of the Province of Ontario such remuneration and expense allowance as may be from time to time fixed by the Lieutenant Governor in Council.

(8) The fiscal year of the Authority begins on the 1st day ^{Fiscal year} of April and ends on the 31st day of March in the following year.

(9) The Authority is an agency of the Crown.

Agency

3. The chairmen of the regional councils of the regional ^{Halton and Hamilton-Wentworth} municipalities of Halton and Hamilton-Wentworth shall receive notice and the agenda of all meetings of the Authority and may attend and participate in the discussion at any meeting of the Authority of any matter directly affecting the transportation of passengers between their respective regional municipalities and the area of jurisdiction of the Authority.

4.—(1) The Authority may make by-laws regulating its ^{By-laws} proceedings.

(2) Subject to the approval of the Minister, the Authority ^{Idem} may make by-laws for the conduct and management of the affairs of the Authority.

5.—(1) The Authority shall employ a Managing Director ^{Staff} and may employ a Secretary, a Treasurer and such other persons and may retain such technical and professional consultants as are considered necessary to carry out the objects of the Authority at such remuneration and upon such terms as the Authority approves.

(2) *The Public Service Superannuation Act* applies to the ^{Idem} permanent and full-time probationary staff of the Authority. ^{R.S.O. 1970, c. 387}

(3) Where the Authority employs a person heretofore employed as a civil servant within the meaning of *The Public Service Act*, any attendance credits or vacation credits standing to the credit of such person as a civil servant shall continue to the credit of such person as an employee of the Authority. ^{Idem R.S.O. 1970, c. 386}

6. The objects of the Authority are,

Objects

(a) to design, establish and operate or cause to be operated an efficient and economical inter-regional transit system to serve the needs of persons requiring transportation as passengers across the bound-

aries of regional areas and within the area of jurisdiction of the Authority;

- (b) to co-ordinate the operations of inter-regional transit systems and regional transit systems;
- (c) to provide information, advice, design assistance and co-ordinating services to inter-regional transit systems and regional transit systems; and
- (d) to perform such other duties and exercise such other powers as are imposed or conferred on the Authority by or under any Act within the area of jurisdiction of the Authority,

in order that the public interest may be served.

Powers

7.—(1) For the purpose of carrying out its objects, the Authority shall study or cause to be studied and investigate or cause to be investigated,

- (a) the design and operation of inter-regional transit systems;
- (b) the fare structure and service schedules of inter-regional transit systems;
- (c) the use by municipalities of transit funds allocated by the Ministry;
- (d) applications for public vehicle operating licences under *The Public Vehicles Act* for the transportation across the boundaries of regional areas of passengers or passengers and express freight on a highway; and
- (e) the integration or co-ordination or both, of the facilities, equipment, personnel training, service schedules and fare structures of inter-regional transit systems and regional transit systems,

R.S.O. 1970,
c. 392

within the area of jurisdiction of the Authority.

Idem

- (2) In carrying out its objects the Authority may,
 - (a) design and construct and operate or cause to be operated an inter-regional transit system;
 - (b) for the establishment and operation, or either of them, of an inter-regional transit system,

- (i) acquire by purchase, lease or otherwise any transit vehicle, equipment or thing;
- (ii) acquire by purchase, lease, expropriation or otherwise any land;
- (c) sell, lease or otherwise dispose of any transit vehicle, equipment, thing or land no longer required by the Authority for the purpose of this Act;
- (d) enter into agreements with the Crown, any individual, corporation, partnership or association for any purpose related to the objects or powers of the Authority; and
- (e) subject to the approval of the Lieutenant Governor in Council, borrow moneys required for the carrying out of its objects.

(3) The Authority shall administer all of the commuter services operated immediately before the coming into force of this Act by the agency of the Province of Ontario known as Government of Ontario Transit.

(4) The Authority may, upon the request of the council of a regional municipality within the area of jurisdiction of the Authority, study or cause to be studied and investigate or cause to be investigated,

- (a) the design and operation of any regional transit system; and
- (b) the fare structure and service schedule of any regional transit system,

within the regional area administered by the council.

8. The moneys required for the purposes of the Authority shall, until the 31st day of March, 1975 and subject to the approval of the Lieutenant Governor in Council, be paid out of the Consolidated Revenue Fund and thereafter may be paid out of the moneys appropriated therefor by the Legislature.

9. The Minister is responsible for the administration of this Act.

10.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Authority may make regulations.

- (a) prescribing fares that shall be charged and collected by any inter-regional transit system operating in the area of jurisdiction of the Authority;
- (b) in respect of a transit system operated by or on behalf of the Authority,
 - (i) prohibiting or regulating the use of any land of the Authority and prohibiting or regulating vehicular traffic and pedestrian traffic on any such land,
 - (ii) requiring and providing for the issue of permits and licences and providing for the granting of rights in respect of the use of any land of the Authority and providing for the revocation of any such permit, licence or right,
 - (iii) prescribing the fees or rentals payable for any permit, licence or right issued or granted in respect of any land of the Authority,
 - (iv) prescribing fares that shall be charged and collected for any service,
 - (v) governing the terms and conditions upon which tickets may be sold,
 - (vi) governing the conduct of passengers and for refusing passage to persons who do not comply with the regulations or the terms and conditions upon which tickets are sold.

Offence

(2) Every person who contravenes any provision of a regulation made under clause *b* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100.

Motor vehicle owner and driver liable to penalties

(3) The owner of a motor vehicle shall incur the fines imposed for any contravention of a regulation made under subsection 1 prohibiting or regulating the parking of motor vehicles unless at the time of the contravention the motor vehicle was in the possession of some person other than the owner or his chauffeur without the owner's consent and the driver of the motor vehicle not being the owner shall also incur the fines imposed for any such contravention.

Appointment of officers to carry out regulations

(4) The Minister may appoint in writing one or more Crown employees as an officer or officers for the purposes of carrying out all or any of the provisions of the regulations made under

subsection 1, and any person so appointed is a constable for such purpose and for the purposes of section 14 of *The Highway Traffic Act*.^{R.S.O. 1970, c. 202}

(5) A person appointed under subsection 4 shall, while carrying out his duties under the appointment, have in his possession a certificate of his appointment under subsection 4 and shall produce such certificate upon request.^{Certificate of appointment}

11. The Lieutenant Governor in Council may make regulations exempting any method of transportation or any type of vehicle from the application of this Act.^{Regulations by Lieutenant Governor in Council}

12.—(1) Every owner of a regional transit system shall file with the Authority the service schedules and tariff of fares of the system that are in force when this Act comes into force and any additional material and information related to the schedules and tariff that the Authority may require from the owner.^{Filing of schedules}

(2) An owner or operator of a regional transit system shall not make any change in, addition to or deletion from the service provided or the fares charged to the public on account of the system, other than a change in, addition to or deletion of service of a temporary nature required to meet an emergency, until the owner or operator has filed with the Authority a statement of the proposed change, addition or deletion.^{Changes in tariffs or schedules}

13.—(1) Subject to the approval of the Minister, the Authority shall appoint one or more auditors licensed under *The Public Accountancy Act* to audit the books, records and accounts of the Authority and prepare an annual auditor's statement for the fiscal year last past.^{R.S.O. 1970, c. 373}

(2) The auditor's report and the working papers used in the preparation of the auditor's statement shall be made available to the Provincial Auditor.^{Provincial Auditor}

14.—(1) The Authority shall make a report annually to the Minister in such form and containing such financial and other information as the Minister may require.^{Annual report}

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.^{Idem}

15. This Act comes into force on the day it receives Royal Assent.^{Commencement}

16. This Act may be cited as *The Toronto Area Transit Operating Authority Act, 1974*.^{Short title}

BILL 115

An Act to establish the Toronto Area
Transit Operating Authority

1st Reading

June 21st, 1974

2nd Reading

3rd Reading

THE HON. J. R. RHODES
Minister of Transportation and
Communications

(*Government Bill*)

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4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974**An Act to establish the
Toronto Area Transit Operating Authority**THE HON. J. R. RHODES
Minister of Transportation and Communications

(Reprinted as amended by the Committee of the Whole House)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill establishes the Toronto Area Transit Operating Authority and sets out its objects, powers and duties.

The Authority will have jurisdiction in the regional municipalities of Peel and York and The Municipality of Metropolitan Toronto and will be composed of the chairmen of the two regional councils and of the Metropolitan Council and a member who will be chairman of the Authority appointed by the Lieutenant Governor in Council. Provision is made for the chairmen of the regional councils of Halton and Hamilton-Wentworth to attend and participate in discussions at meetings of the Authority when matters directly affecting the transportation of passengers between their respective regional municipalities and the area of jurisdiction of the Authority are discussed.

The Authority has as its objects the design, establishment and operation of an inter-regional transit system, the co-ordination of the operations of the inter-regional transit systems and regional transit systems, and the provision of information, advice, design assistance and co-ordinating services to inter-regional transit systems and regional transit systems.

The Authority will assume administration of the commuter services operated by GO Transit and, subject to prior review by the Minister and with the approval of the Lieutenant Governor in Council, may prescribe fares to be charged by any inter-regional transit system.

Provision is made for the exclusion by regulations made by the Lieutenant Governor in Council of any method of transportation or any type of vehicle from the application of the Bill.

Regional transit systems are required to file their service schedules and tariffs of fares with the Authority. They are also required to file with the Authority a statement of any proposed change in, addition to, or deletion from the schedules or tariffs.

The Authority is given various powers in order to carry out its objects, including the power to acquire land, to acquire transit vehicles and to enter into agreements with the Crown or any individual, corporation, partnership or association.

BILL 115**1974**

**An Act to establish the
Toronto Area Transit Operating Authority**

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. In this Act,

Interpre-
tation

(a) "area of jurisdiction of the Authority" means the area composed of,

(i) The Regional Area as defined in *The Regional Municipality of Peel Act, 1973*,^{1973, c. 60}

(ii) the Regional Area as defined in *The Regional Municipality of York Act*, and<sup>R.S.O. 1970,
c. 408</sup>

(iii) the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*;<sup>R.S.O. 1970,
c. 295</sup>

(b) "Authority" means the Toronto Area Transit Operating Authority established under section 2;

(c) "inter-regional transit system" means a transit system that is principally operated,

(i) in more than one regional area, and

(ii) within the area of jurisdiction of the Authority;

(d) "land" includes buildings or improvements on land, land covered with water, and any estate, interest, right or easement in, to, over or affecting any of them;

(e) "Minister" means the Minister of Transportation and Communications;

(f) "Ministry" means the Ministry of Transportation and Communications;

(g) "regional area" means a regional area as defined in,

1973, c. 60

(i) *The Regional Municipality of Peel Act, 1973*,
or

R.S.O. 1970,
c. 408

(ii) *The Regional Municipality of York Act*,

R.S.O. 1970,
c. 295

or the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*;

(h) "regional transit system" means a transit system that is principally operated within a regional area;

(i) "regulations" means the regulations made under this Act;

(j) "transit system" means a system for the transportation of passengers.

Toronto
Area
Transit
Operating
Authority

2.—(1) There is hereby established a corporation without share capital under the name of "Toronto Area Transit Operating Authority".

Membership

(2) The Authority shall be composed of four members as follows,

(a) one member appointed by the Lieutenant Governor in Council, who shall be the chairman of the Authority;

(b) the chairmen of the regional councils of the regional municipalities of Peel and York; and

(c) the chairman of the Metropolitan Council of The Municipality of Metropolitan Toronto.

Term of
office of
chairman

(3) The member appointed by the Lieutenant Governor in Council shall hold office for a term of five years and until his successor is appointed.

Quorum

(4) Three members of the Authority constitute a quorum.

(5) In the event of a vacancy caused by the death, resignation or incapacity of the member of the Authority appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may appoint a person to hold office for the remainder of the term of such member.

Absence of
chairman

(6) When the chairman is absent from any meeting of the Authority, the members present at the meeting shall appoint from among them an acting chairman who, for the purposes of the meeting, has all the powers and shall perform all the duties of the chairman.

(7) The Authority may pay those of its members who are ^{Remuneration} not officers in the public service of the Province of Ontario such remuneration and expense allowance as may be from time to time fixed by the Lieutenant Governor in Council.

(8) The fiscal year of the Authority begins on the 1st day ^{Fiscal year} of April and ends on the 31st day of March in the following year.

(9) The Authority is an agency of the Crown. Agency

3. The chairmen of the regional councils of the regional ^{Halton and Hamilton-Wentworth} municipalities of Halton and Hamilton-Wentworth shall receive notice and the agenda of all meetings of the Authority and may attend and participate in the discussion at any meeting of the Authority of any matter directly affecting the transportation of passengers between their respective regional municipalities and the area of jurisdiction of the Authority.

4.—(1) The Authority may make by-laws regulating its ^{By-laws} proceedings.

(2) Subject to the approval of the Minister, the Authority ^{Idem} may make by-laws for the conduct and management of the affairs of the Authority.

5.—(1) The Authority shall employ a Managing Director ^{Staff} and may employ a Secretary, a Treasurer and such other persons and may retain such technical and professional consultants as are considered necessary to carry out the objects of the Authority at such remuneration and upon such terms as the Authority approves.

(2) *The Public Service Superannuation Act* applies to the ^{Idem} permanent and full-time probationary staff of the Authority. ^{R.S.O. 1970, c. 387}

(3) Where the Authority employs a person heretofore employed as a civil servant within the meaning of *The Public Service Act*, any attendance credits or vacation credits standing to the credit of such person as a civil servant shall continue to the credit of such person as an employee of the Authority. <sup>Idem
R.S.O. 1970, c. 386</sup>

6. The objects of the Authority are, Objects

(a) to design, establish and operate or cause to be operated an efficient and economical surface and subsurface, or either of them, inter-regional transit system to serve the needs of persons requiring transportation as passengers across the boundaries of

regional areas and within the area of jurisdiction of the Authority;

- (b) to co-ordinate the operations of surface and subsurface inter-regional transit systems and surface and subsurface regional transit systems;
- (c) to provide information, advice, design assistance and co-ordinating services to surface and subsurface inter-regional transit systems and surface and subsurface regional transit systems; and
- (d) to perform such other duties and exercise such other powers as are imposed or conferred on the Authority by or under any Act within the area of jurisdiction of the Authority,

in order that the public interest may be served.

Powers

7.—(1) For the purpose of carrying out its objects, the Authority shall study or cause to be studied and investigate or cause to be investigated,

- (a) the design and operation of inter-regional transit systems;
- (b) the fare structure and service schedules of inter-regional transit systems;
- (c) the use by municipalities of transit funds allocated by the Ministry;
- (d) applications for public vehicle operating licences under *The Public Vehicles Act* for the transportation across the boundaries of regional areas of passengers or passengers and express freight on a highway; and
- (e) the integration or co-ordination or both, of the facilities, equipment, personnel training, service schedules and fare structures of inter-regional transit systems and regional transit systems,

R.S.O. 1970,
c. 392

within the area of jurisdiction of the Authority.

Item

(2) In carrying out its objects the Authority may,

- (a) design and construct and operate or cause to be operated an inter-regional transit system;
- (b) for the establishment and operation, or either of them, of an inter-regional transit system,

- (i) acquire by purchase, lease or otherwise any transit vehicle, equipment or thing;
- (ii) acquire by purchase, lease, expropriation or otherwise any land;
- (c) sell, lease or otherwise dispose of any transit vehicle, equipment, thing or land no longer required by the Authority for the purpose of this Act;
- (d) enter into agreements with the Crown, any individual, corporation, partnership or association for any purpose related to the objects or powers of the Authority; and
- (e) subject to the approval of the Lieutenant Governor in Council, borrow moneys required for the carrying out of its objects.

(3) The Authority shall administer all of the commuter services operated immediately before the coming into force of this Act by the agency of the Province of Ontario known as Government of Ontario Transit.

(4) The Authority may, upon the request of the council of a regional municipality within the area of jurisdiction of the Authority, study or cause to be studied and investigate or cause to be investigated,

- (a) the design and operation of any regional transit system; and
- (b) the fare structure and service schedule of any regional transit system,

within the regional area administered by the council.

8. The moneys required for the purposes of the Authority shall, until the 31st day of March, 1975 and subject to the approval of the Lieutenant Governor in Council, be paid out of the Consolidated Revenue Fund and thereafter may be paid out of the moneys appropriated therefor by the Legislature.

9. The Minister is responsible for the administration of this Act.

10.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Authority may make regulations,

- (a) prescribing fares that shall be charged and collected by any inter-regional transit system operating in the area of jurisdiction of the Authority;
- (b) in respect of a transit system operated by or on behalf of the Authority,
 - (i) prohibiting or regulating the use of any land of the Authority and prohibiting or regulating vehicular traffic and pedestrian traffic on any such land,
 - (ii) requiring and providing for the issue of permits and licences and providing for the granting of rights in respect of the use of any land of the Authority and providing for the revocation of any such permit, licence or right,
 - (iii) prescribing the fees or rentals payable for any permit, licence or right issued or granted in respect of any land of the Authority,
 - (iv) prescribing fares that shall be charged and collected for any service,
 - (v) governing the terms and conditions upon which tickets may be sold,
 - (vi) governing the conduct of passengers and for refusing passage to persons who do not comply with the regulations or the terms and conditions upon which tickets are sold.

Offence

(2) Every person who contravenes any provision of a regulation made under clause *b* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100.

Motor vehicle owner and driver liable to penalties

(3) The owner of a motor vehicle shall incur the fines imposed for any contravention of a regulation made under subsection 1 prohibiting or regulating the parking of motor vehicles unless at the time of the contravention the motor vehicle was in the possession of some person other than the owner or his chauffeur without the owner's consent and the driver of the motor vehicle not being the owner shall also incur the fines imposed for any such contravention.

Appointment of officers to carry out regulations

(4) The Minister may appoint in writing one or more Crown employees as an officer or officers for the purposes of carrying out all or any of the provisions of the regulations made under

subsection 1, and any person so appointed is a constable for such purpose and for the purposes of section 14 of *The Highway Traffic Act*.^{R.S.O. 1970, c. 202}

(5) A person appointed under subsection 4 shall, while carrying out his duties under the appointment, have in his possession a certificate of his appointment under subsection 4 and shall produce such certificate upon request.

11. The Lieutenant Governor in Council may make regulations exempting any method of transportation or any type of vehicle from the application of this Act.^{Regulations by Lieutenant Governor in Council}

12.—(1) Every owner of a regional transit system shall file with the Authority the service schedules and tariff of fares of the system that are in force when this Act comes into force and any additional material and information related to the schedules and tariff that the Authority may require from the owner.^{Filing of tariffs and schedules}

(2) An owner or operator of a regional transit system shall not make any change in, addition to or deletion from the service provided or the fares charged to the public on account of the system, other than a change in, addition to or deletion of service of a temporary nature required to meet an emergency, until the owner or operator has filed with the Authority a statement of the proposed change, addition or deletion.^{Changes in tariffs or schedules}

13.—(1) Subject to the approval of the Minister, the Authority shall appoint one or more auditors licensed under *The Public Accountancy Act* to audit the books, records and accounts of the Authority and prepare an annual auditor's statement for the fiscal year last past.^{Auditor R.S.O. 1970, c. 373}

(2) The auditor's report and the working papers used in the preparation of the auditor's statement shall be made available to the Provincial Auditor.^{Provincial Auditor}

14.—(1) The Authority shall make a report annually to the Minister in such form and containing such financial and other information as the Minister may require.^{Annual report}

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.^{Idem}

15. This Act comes into force on the day it receives Royal Assent.^{Commencement}

16. This Act may be cited as *The Toronto Area Transit Operating Authority Act, 1974*.^{Short title}

BILL 115

An Act to establish the Toronto Area Transit Operating Authority

1st Reading

June 21st, 1974

2nd Reading

June 27th, 1974

3rd Reading

THE HON. J. R. RHODES
Minister of Transportation and
Communications

(Reprinted as amended by the
Committee of the Whole House)

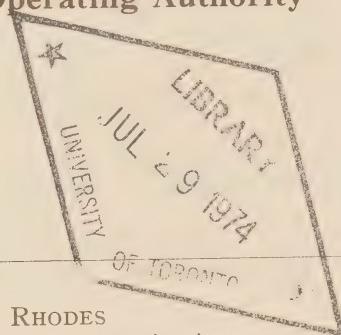
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4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to establish the
Toronto Area Transit Operating Authority



THE HON. J. R. RHODES
Minister of Transportation and Communications

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 115**1974**

**An Act to establish the
Toronto Area Transit Operating Authority**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “area of jurisdiction of the Authority” means the area composed of,
 - (i) The Regional Area as defined in *The Regional Municipality of Peel Act, 1973*, 1973, c. 60
 - (ii) the Regional Area as defined in *The Regional Municipality of York Act*, and R.S.O. 1970, c. 408
 - (iii) the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*; R.S.O. 1970, c. 295
- (b) “Authority” means the Toronto Area Transit Operating Authority established under section 2;
- (c) “inter-regional transit system” means a transit system that is principally operated,
 - (i) in more than one regional area, and
 - (ii) within the area of jurisdiction of the Authority;
- (d) “land” includes buildings or improvements on land, land covered with water, and any estate, interest, right or easement in, to, over or affecting any of them;
- (e) “Minister” means the Minister of Transportation and Communications;
- (f) “Ministry” means the Ministry of Transportation and Communications;

(g) "regional area" means a regional area as defined in,

1973, c. 60

(i) *The Regional Municipality of Peel Act, 1973*,
or

R.S.O. 1970,
c. 408

(ii) *The Regional Municipality of York Act*,

R.S.O. 1970,
c. 295

or the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*;

(h) "regional transit system" means a transit system that is principally operated within a regional area;

(i) "regulations" means the regulations made under this Act;

(j) "transit system" means a system for the transportation of passengers.

Toronto
Area
Transit
Operating
Authority

2.—(1) There is hereby established a corporation without share capital under the name of "Toronto Area Transit Operating Authority".

Membership

(2) The Authority shall be composed of four members as follows,

(a) one member appointed by the Lieutenant Governor in Council, who shall be the chairman of the Authority;

(b) the chairmen of the regional councils of the regional municipalities of Peel and York; and

(c) the chairman of the Metropolitan Council of The Municipality of Metropolitan Toronto.

Term of
office of
chairman

(3) The member appointed by the Lieutenant Governor in Council shall hold office for a term of five years and until his successor is appointed.

Quorum

(4) Three members of the Authority constitute a quorum.

Vacancy

(5) In the event of a vacancy caused by the death, resignation or incapacity of the member of the Authority appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may appoint a person to hold office for the remainder of the term of such member.

Absence of
chairman

(6) When the chairman is absent from any meeting of the Authority, the members present at the meeting shall appoint from among them an acting chairman who, for the purposes of the meeting, has all the powers and shall perform all the duties of the chairman.

(7) The Authority may pay those of its members who are ^{Remuneration} not officers in the public service of the Province of Ontario such remuneration and expense allowance as may be from time to time fixed by the Lieutenant Governor in Council.

(8) The fiscal year of the Authority begins on the 1st day ^{Fiscal year} of April and ends on the 31st day of March in the following year.

(9) The Authority is an agency of the Crown. Agency

3. The chairmen of the regional councils of the regional ^{Halton and Hamilton-Wentworth} municipalities of Halton and Hamilton-Wentworth shall receive notice and the agenda of all meetings of the Authority and may attend and participate in the discussion at any meeting of the Authority of any matter directly affecting the transportation of passengers between their respective regional municipalities and the area of jurisdiction of the Authority.

4.—(1) The Authority may make by-laws regulating its ^{By-laws} proceedings.

(2) Subject to the approval of the Minister, the Authority ^{Idem} may make by-laws for the conduct and management of the affairs of the Authority.

5.—(1) The Authority shall employ a Managing Director ^{Staff} and may employ a Secretary, a Treasurer and such other persons and may retain such technical and professional consultants as are considered necessary to carry out the objects of the Authority at such remuneration and upon such terms as the Authority approves.

(2) *The Public Service Superannuation Act* applies to the ^{Idem} permanent and full-time probationary staff of the Authority. ^{R.S.O. 1970, c. 387}

(3) Where the Authority employs a person heretofore employed as a civil servant within the meaning of *The Public Service Act*, any attendance credits or vacation credits standing to the credit of such person as a civil servant shall continue to the credit of such person as an employee of the Authority. ^{Idem R.S.O. 1970, c. 386}

6. The objects of the Authority are, Objects

(a) to design, establish and operate or cause to be operated an efficient and economical surface and subsurface, or either of them, inter-regional transit system to serve the needs of persons requiring transportation as passengers across the boundaries of

regional areas and within the area of jurisdiction of the Authority;

- (b) to co-ordinate the operations of surface and sub-surface inter-regional transit systems and surface and subsurface regional transit systems;
- (c) to provide information, advice, design assistance and co-ordinating services to surface and subsurface inter-regional transit systems and surface and subsurface regional transit systems; and
- (d) to perform such other duties and exercise such other powers as are imposed or conferred on the Authority by or under any Act within the area of jurisdiction of the Authority,

in order that the public interest may be served.

Powers

7.—(1) For the purpose of carrying out its objects, the Authority shall study or cause to be studied and investigate or cause to be investigated,

- (a) the design and operation of inter-regional transit systems;
- (b) the fare structure and service schedules of inter-regional transit systems;
- (c) the use by municipalities of transit funds allocated by the Ministry;
- (d) applications for public vehicle operating licences under *The Public Vehicles Act* for the transportation across the boundaries of regional areas of passengers or passengers and express freight on a highway; and
- (e) the integration or co-ordination or both, of the facilities, equipment, personnel training, service schedules and fare structures of inter-regional transit systems and regional transit systems,

R.S.O. 1970,
c. 392

within the area of jurisdiction of the Authority.

Idem

(2) In carrying out its objects the Authority may,

- (a) design and construct and operate or cause to be operated an inter-regional transit system;
- (b) for the establishment and operation, or either of them, of an inter-regional transit system,

- (i) acquire by purchase, lease or otherwise any transit vehicle, equipment or thing,
- (ii) acquire by purchase, lease, expropriation or otherwise any land;
- (c) sell, lease or otherwise dispose of any transit vehicle, equipment, thing or land no longer required by the Authority for the purpose of this Act;
- (d) enter into agreements with the Crown, any individual, corporation, partnership or association for any purpose related to the objects or powers of the Authority; and
- (e) subject to the approval of the Lieutenant Governor in Council, borrow moneys required for the carrying out of its objects.

(3) The Authority shall administer all of the commuter services operated immediately before the coming into force of this Act by the agency of the Province of Ontario known as Government of Ontario Transit.

(4) The Authority may, upon the request of the council of a regional municipality within the area of jurisdiction of the Authority, study or cause to be studied and investigate or cause to be investigated,

- (a) the design and operation of any regional transit system; and
- (b) the fare structure and service schedule of any regional transit system,

within the regional area administered by the council.

8. The moneys required for the purposes of the Authority shall, until the 31st day of March, 1975 and subject to the approval of the Lieutenant Governor in Council, be paid out of the Consolidated Revenue Fund and thereafter may be paid out of the moneys appropriated therefor by the Legislature.

9. The Minister is responsible for the administration of this Act.

10.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Authority may make regulations,

- (a) prescribing fares that shall be charged and collected by any inter-regional transit system operating in the area of jurisdiction of the Authority;
- (b) in respect of a transit system operated by or on behalf of the Authority,
 - (i) prohibiting or regulating the use of any land of the Authority and prohibiting or regulating vehicular traffic and pedestrian traffic on any such land,
 - (ii) requiring and providing for the issue of permits and licences and providing for the granting of rights in respect of the use of any land of the Authority and providing for the revocation of any such permit, licence or right,
 - (iii) prescribing the fees or rentals payable for any permit, licence or right issued or granted in respect of any land of the Authority,
 - (iv) prescribing fares that shall be charged and collected for any service,
 - (v) governing the terms and conditions upon which tickets may be sold,
 - (vi) governing the conduct of passengers and for refusing passage to persons who do not comply with the regulations or the terms and conditions upon which tickets are sold.

Offence

(2) Every person who contravenes any provision of a regulation made under clause *b* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100.

Motor vehicle owner and driver liable to penalties

(3) The owner of a motor vehicle shall incur the fines imposed for any contravention of a regulation made under subsection 1 prohibiting or regulating the parking of motor vehicles unless at the time of the contravention the motor vehicle was in the possession of some person other than the owner or his chauffeur without the owner's consent and the driver of the motor vehicle not being the owner shall also incur the fines imposed for any such contravention.

Appointment of officers to carry out regulations

(4) The Minister may appoint in writing one or more Crown employees as an officer or officers for the purposes of carrying out all or any of the provisions of the regulations made under

subsection 1, and any person so appointed is a constable for such purpose and for the purposes of section 14 of *The Highway Traffic Act*.^{R.S.O. 1970, c. 202}

(5) A person appointed under subsection 4 shall, while carrying out his duties under the appointment, have in his possession a certificate of his appointment under subsection 4 and shall produce such certificate upon request.^{Certificate of appointment}

11. The Lieutenant Governor in Council may make regulations exempting any method of transportation or any type of vehicle from the application of this Act.^{Regulations by Lieutenant Governor in Council}

12.—(1) Every owner of a regional transit system shall file with the Authority the service schedules and tariff of fares of the system that are in force when this Act comes into force and any additional material and information related to the schedules and tariff that the Authority may require from the owner.^{Filing of tariffs and schedules}

(2) An owner or operator of a regional transit system shall not make any change in, addition to or deletion from the service provided or the fares charged to the public on account of the system, other than a change in, addition to or deletion of service of a temporary nature required to meet an emergency, until the owner or operator has filed with the Authority a statement of the proposed change, addition or deletion.^{Changes in tariffs or schedules}

13.—(1) Subject to the approval of the Minister, the Authority shall appoint one or more auditors licensed under *The Public Accountancy Act* to audit the books, records and accounts of the Authority and prepare an annual auditor's statement for the fiscal year last past.^{Auditor R.S.O. 1970, c. 373}

(2) The auditor's report and the working papers used in the preparation of the auditor's statement shall be made available to the Provincial Auditor.^{Provincial Auditor}

14.—(1) The Authority shall make a report annually to the Minister in such form and containing such financial and other information as the Minister may require.^{Annual report}

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.^{Idem}

15. This Act comes into force on the day it receives Royal Assent.^{Commencement}

16. This Act may be cited as *The Toronto Area Transit Operating Authority Act, 1974*.^{Short title}

BILL 115

An Act to establish the Toronto Area Transit Operating Authority

1st Reading

June 21st, 1974

2nd Reading

June 27th, 1974

3rd Reading

June 28th, 1974

THE HON. J. R. RHODES
Minister of Transportation and
Communications

Ontario Legislative Assembly

Government
Publications
Government Bill

CAZON

BILL 116

XB

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend
The Workmen's Compensation Act

THE HON. J. MACBETH
Minister of Labour



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. Monthly payments are increased to \$260.

SECTION 2. Compensation payments are extended to the date of return to suitable employment.

BILL 116**1974**

**An Act to amend
The Workmen's Compensation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clauses *c* and *d* as re-enacted by the Statutes of Ontario, ^{s. 36 (1)}
^{(c, d, f),} 1973, chapter 173, section 5, and clause *f* as re-enacted ^{re-enacted} by the Statutes of Ontario, 1973, chapter 46, section 1, of subsection 1 of section 36 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:
 - (c) where the widow or a widower is the sole dependant, a monthly payment of \$260;
 - (d) where the dependants are a widow or a widower and one or more children, a monthly payment of \$260 with an additional monthly payment of \$70 to be increased upon the death of the widow or widower to \$80 for each child under the age of sixteen years;
 - (f) where the dependants are persons other than those mentioned in clauses *c*, *d* and *e*, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole \$260 per month.
- (2) Subsection 5 of the said section 36, as amended by the ^{s. 36 (5),} ^{repealed} Statutes of Ontario, 1973, chapter 46, section 1, and 1973, chapter 173, section 1, is repealed.
2. Section 41 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed and the following substituted therefor:

Temporary
partial
disability

41.—(1) Where temporary partial disability results from the injury, the compensation shall be,

- (a) where the employee returns to employment, a weekly payment of 75 per cent of the difference between the average weekly earnings of the employee before the accident and an average amount that he is able to earn in some suitable employment or business after the accident; or
- (b) where the employee does not return to work, a weekly payment in the same amount as would be payable if he were temporarily totally disabled, unless he,
 - (i) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting him back to work and in lessening or removing any handicap resulting from his injuries, or
 - (ii) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for his capabilities.

Idem

(2) Where subclause i or ii of clause b of subsection 1 applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the accident as determined by the Board, and subsection 4 of section 42 applies.

s. 42,
amended

3. Section 42 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by adding thereto the following subsections:

Entitlement
on death

(7) A dependant of an employee who was, at the time of his or her death, in receipt of an award for permanent disability which the Board has rated at 100 per cent or, but for his or her death, would have been in receipt of an award for permanent disability at the rate of 100 per cent is entitled to compensation as if the death of the employee had resulted from the compensable disability for which he or she received or would have received the permanent disability award.

Substitution
of payment

(8) The amounts payable under this section shall be revalorized by substituting for the monthly amount payable under this section as of the 31st day of December, 1973, the product of such amount and the factor of 2 per cent for every

SECTION 3. Death benefits continue to be payable to dependants of a permanently totally disabled employee where death occurs from any cause.

The amendment provides for adjustment of disability pensions calculated from the year the employee became entitled thereto.

SECTION 4. The total disability pension to an employee is to be not less than the pension payable to dependants.

SECTION 5. The earnings ceiling is increased to \$12,000.

SECTION 6. The clothing allowance is increased.

year in which a pension was payable for permanent disability up to and including 1971 in addition to a factor of 4 per cent for each of the years 1972 and 1973, provided that in no case shall the sum of such factors exceed 60 per cent.

(9) Subsection 8 does not apply to a commutation lump sum award, an award under subsection 6 of this section or an award under clause *b* of section 43, which the Board has made under this Part. ^{Exception}

4.—(1) Subclause *i* of clause *b* of section 43 of the said Act, as <sup>s. 43 (b) (i),
re-enacted</sup> re-enacted by the Statutes of Ontario, 1973, chapter 46, section 2, is repealed and the following substituted therefor:

(i) for permanent total disability, \$260 a month, and

(2) The said section 43, as amended by the Statutes of Ontario, <sup>s. 43,
amended</sup> 1973, chapter 173, section 1, is further amended by adding “and” at the end of clause *b* and by adding thereto the following clause:

(c) for permanent total disability, not less than the benefits which would have been payable to his dependants under clauses *c*, *d* and *e* of subsection 1 of section 36, under subsections 2, 4 and 10 of section 36 and under section 38 as if he had died from the injury.

5. Subsection 1 of section 44 of the said Act, as amended by the <sup>s. 44 (1),
amended</sup> Statutes of Ontario, 1973, chapter 46, section 4, and 1973, chapter 173, section 1, is further amended by striking out “\$10,000” in the amendment of 1973, chapter 46, section 4, and inserting in lieu thereof “\$12,000”.

6. Clause *b* of subsection 3 of section 51 of the said Act is <sup>s. 51 (3), (b),
re-enacted</sup> repealed and the following substituted therefor:

(b) on application, an allowance not exceeding \$168 per annum for replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis supplied by the Board, and not exceeding \$84 per annum in respect of an upper limb prosthesis supplied by the Board,

- Application **7.**—(1) Sections 1, 2, 3, 4 and 6 apply to all payments accruing on and after the 1st day of July, 1974, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1974.
- Idem (2) Section 5 applies only for the purposes of computing average earnings in respect of accidents occurring on or after the 1st day of July, 1974.
- Commencement **8.** This Act comes into force on the 1st day of July, 1974.
- Short title **9.** This Act may be cited as *The Workmen's Compensation Amendment Act, 1974.*

SECTION 7. Self-explanatory.

BILL 116

An Act to amend
The Workmen's Compensation Act

1st Reading

June 21st, 1974

2nd Reading

3rd Reading

THE HON. J. MACBETH
Minister of Labour

(*Government Bill*)

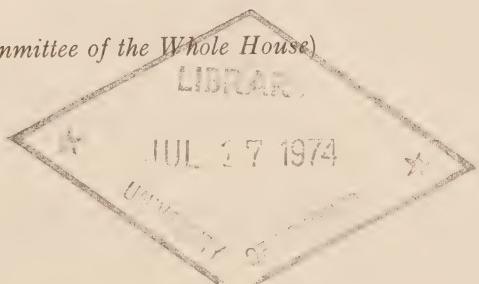
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4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

**An Act to amend
The Workmen's Compensation Act**

THE HON. J. MACBETH
Minister of Labour

(Reprinted as amended by the Committee of the Whole House)



EXPLANATORY NOTES

SECTION 1. Monthly payments are increased to \$260.

SECTION 2. Compensation payments are extended to the date of return to suitable employment.

BILL 116**1974**

**An Act to amend
The Workmen's Compensation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clauses *c* and *d* as re-enacted by the Statutes of Ontario, ^{s. 36 (1)}_(c, d, f), 1973, chapter 173, section 5, and clause *f* as re-enacted ^{re-enacted} by the Statutes of Ontario, 1973, chapter 46, section 1, of subsection 1 of section 36 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:
 - (c) where the widow or a widower is the sole dependant, a monthly payment of \$260;
 - (d) where the dependants are a widow or a widower and one or more children, a monthly payment of \$260 with an additional monthly payment of \$70 to be increased upon the death of the widow or widower to \$80 for each child under the age of sixteen years;
 - (f) where the dependants are persons other than those mentioned in clauses *c*, *d* and *e*, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole \$260 per month.
- (2) Subsection 5 of the said section 36, as amended by the Statutes of Ontario, 1973, chapter 46, section 1, and 1973, chapter 173, section 1, is repealed.
2. Section 41 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed and the following substituted therefor:

Temporary
partial
disability

41.—(1) Where temporary partial disability results from the injury, the compensation shall be,

- (a) where the employee returns to employment, a weekly payment of 75 per cent of the difference between the average weekly earnings of the employee before the accident and an average amount that he is able to earn in some suitable employment or business after the accident; or
- (b) where the employee does not return to work, a weekly payment in the same amount as would be payable if he were temporarily totally disabled, unless he,
 - (i) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting him back to work and in lessening or removing any handicap resulting from his injuries, or
 - (ii) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for his capabilities.

Idem

(2) Where subclause i or ii of clause b of subsection 1 applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the accident as determined by the Board, and subsection 4 of section 42 applies.

s. 42,
amended

3. Section 42 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by adding thereto the following subsections:

Entitlement
on death

(7) A dependant of an employee who was, at the time of his or her death, in receipt of an award for permanent disability which the Board has rated at 100 per cent or, but for his or her death, would have been in receipt of an award for permanent disability at the rate of 100 per cent is entitled to compensation as if the death of the employee had resulted from the compensable disability for which he or she received or would have received the permanent disability award.

Substitution
of payment

(8) The amounts payable under this section shall be revalorized by substituting for the monthly amount payable under this section as of the 31st day of December, 1973, the sum of such amount and the factor of 2 per cent for every

SECTION 3. Death benefits continue to be payable to dependants of a permanently totally disabled employee where death occurs from any cause.

The amendment provides for adjustment of disability pensions calculated from the year the employee became entitled thereto.

SECTION 4. The total disability pension to an employee is to be not less than the pension payable to dependants.

SECTION 5. The earnings ceiling is increased to \$12,000.

SECTION 6. The clothing allowance is increased.

year in which a pension was payable for permanent disability up to and including 1971 in addition to a factor of 4 per cent for each of the years 1972 and 1973, provided that in no case shall the sum of such factors exceed 60 per cent.

(9) Subsection 8 does not apply to a commutation lump sum award, an award under subsection 6 of this section or an award under clause *b* of section 43, which the Board has made under this Part. ^{Exception}

4.—(1) Subclause *i* of clause *b* of section 43 of the said Act, as <sup>s. 43 (b) (1),
re-enacted</sup> re-enacted by the Statutes of Ontario, 1973, chapter 46, section 2, is repealed and the following substituted therefor:

(i) for permanent total disability, \$260 a month,
and

(2) The said section 43, as amended by the Statutes of Ontario, <sup>s. 43,
amended</sup> 1973, chapter 173, section 1, is further amended by adding “and” at the end of clause *b* and by adding thereto the following clause:

(c) for permanent total disability, not less than the benefits which would have been payable to his dependants under clauses *c*, *d* and *e* of subsection 1 of section 36, under subsections 2, 4 and 10 of section 36 and under section 38 as if he had died from the injury.

5. Subsection 1 of section 44 of the said Act, as amended by the <sup>s. 44 (1),
amended</sup> Statutes of Ontario, 1973, chapter 46, section 4, and 1973, chapter 173, section 1, is further amended by striking out “\$10,000” in the amendment of 1973, chapter 46, section 4, and inserting in lieu thereof “\$12,000”.

6. Clause *b* of subsection 3 of section 51 of the said Act is <sup>s. 51 (3), (b),
re-enacted</sup> repealed and the following substituted therefor:

(b) on application, an allowance not exceeding \$168 per annum for replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis supplied by the Board, and not exceeding \$84 per annum in respect of an upper limb prosthesis supplied by the Board,

- Application **7.**—(1) Sections 1, 2, 3, 4 and 6 apply to all payments accruing on and after the 1st day of July, 1974, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1974.
- Idem (2) Section 5 applies only for the purposes of computing average earnings in respect of accidents occurring on or after the 1st day of July, 1974.
- Commencement **8.** This Act comes into force on the 1st day of July, 1974.
- Short title **9.** This Act may be cited as *The Workmen's Compensation Amendment Act, 1974.*

SECTION 7. Self-explanatory.

BILL 116

An Act to amend The Workmen's Compensation Act

1st Reading

June 21st, 1974

2nd Reading

June 28th, 1974

3rd Reading

THE HON. J. MACBETH
Minister of Labour

(Reprinted as amended by the
Committee of the Whole House)

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974



THE HON. J. MACBETH
Minister of Labour

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 116**1974**

**An Act to amend
The Workmen's Compensation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clauses *c* and *d* as re-enacted by the Statutes of Ontario, <sup>s. 36 (1),
(c, d, f),</sup> 1973, chapter 173, section 5, and clause *f* as re-enacted ^{re-enacted} by the Statutes of Ontario, 1973, chapter 46, section 1, of subsection 1 of section 36 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:
 - (c) where the widow or a widower is the sole dependant, a monthly payment of \$260;
 - (d) where the dependants are a widow or a widower and one or more children, a monthly payment of \$260 with an additional monthly payment of \$70 to be increased upon the death of the widow or widower to \$80 for each child under the age of sixteen years;
 - (f) where the dependants are persons other than those mentioned in clauses *c*, *d* and *e*, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole \$260 per month.
- (2) Subsection 5 of the said section 36, as amended by the Statutes of Ontario, 1973, chapter 46, section 1, and 1973, chapter 173, section 1, is repealed.
2. Section 41 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed and the following substituted therefor:

Temporary
partial
disability

41.—(1) Where temporary partial disability results from the injury, the compensation shall be,

- (a) where the employee returns to employment, a weekly payment of 75 per cent of the difference between the average weekly earnings of the employee before the accident and an average amount that he is able to earn in some suitable employment or business after the accident; or
- (b) where the employee does not return to work, a weekly payment in the same amount as would be payable if he were temporarily totally disabled, unless he,
 - (i) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting him back to work and in lessening or removing any handicap resulting from his injuries, or
 - (ii) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for his capabilities.

Idem

(2) Where subclause i or ii of clause b of subsection 1 applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the accident as determined by the Board, and subsection 4 of section 42 applies.

s. 42,
amended

3. Section 42 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by adding thereto the following subsections:

Entitlement
on death

(7) A dependant of an employee who was, at the time of his or her death, in receipt of an award for permanent disability which the Board has rated at 100 per cent or, but for his or her death, would have been in receipt of an award for permanent disability at the rate of 100 per cent is entitled to compensation as if the death of the employee had resulted from the compensable disability for which he or she received or would have received the permanent disability award.

Substitution
of payment

(8) The amounts payable under this section shall be revalorized by substituting for the monthly amount payable under this section as of the 31st day of December, 1973, the sum of such amount and the factor of 2 per cent for every

year in which a pension was payable for permanent disability up to and including 1971 in addition to a factor of 4 per cent for each of the years 1972 and 1973, provided that in no case shall the sum of such factors exceed 60 per cent.

(9) Subsection 8 does not apply to a commutation lump sum award, an award under subsection 6 of this section or an award under clause *b* of section 43, which the Board has made under this Part. ^{Exception}

4.—(1) Subclause *i* of clause *b* of section 43 of the said Act, as <sup>s. 43 (b) (1),
re-enacted</sup> re-enacted by the Statutes of Ontario, 1973, chapter 46, section 2, is repealed and the following substituted therefor:

(i) for permanent total disability, \$260 a month,
and

(2) The said section 43, as amended by the Statutes of Ontario, <sup>s. 43,
amended</sup> 1973, chapter 173, section 1, is further amended by adding “and” at the end of clause *b* and by adding thereto the following clause:

(c) for permanent total disability, not less than the benefits which would have been payable to his dependants under clauses *c*, *d* and *e* of subsection 1 of section 36, under subsections 2, 4 and 10 of section 36 and under section 38 as if he had died from the injury.

5. Subsection 1 of section 44 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 46, section 4, and 1973, chapter 173, section 1, is further amended by striking out “\$10,000” in the amendment of 1973, chapter 46, section 4, and inserting in lieu thereof “\$12,000”.

6. Clause *b* of subsection 3 of section 51 of the said Act is <sup>s. 51 (3), (b),
re-enacted</sup> repealed and the following substituted therefor:

(b) on application, an allowance not exceeding \$168 per annum for replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis supplied by the Board, and not exceeding \$84 per annum in respect of an upper limb prosthesis supplied by the Board,

- Application **7.**—(1) Sections 1, 2, 3, 4 and 6 apply to all payments accruing on and after the 1st day of July, 1974, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1974.
- Idem (2) Section 5 applies only for the purposes of computing average earnings in respect of accidents occurring on or after the 1st day of July, 1974.
- Commencement **8.** This Act comes into force on the 1st day of July, 1974.
- Short title **9.** This Act may be cited as *The Workmen's Compensation Amendment Act, 1974.*

BILL 116

An Act to amend
The Workmen's Compensation Act

1st Reading

June 21st, 1974

2nd Reading

June 28th, 1974

3rd Reading

June 28th, 1974

THE HON. J. MACBETH
Minister of Labour

CAZON
XB
-356

Government Publications

BILL 117

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

**An Act to reform certain Laws founded
upon Marital or Family Relationships**

THE HON. R. WELCH
Attorney General



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The Bill removes remaining disabilities of a married woman under the common law and establishes the same law applying to married men and married women equally as if they were unmarried. This includes, among other things, the right to sue each other in tort and recognition of a wife's contribution to her husband's business to ameliorate the result of the recent case of *Murdoch v. Murdoch*.

BILL 117

1974

**An Act to reform certain Laws founded
upon Marital or Family Relationships**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) For all purposes of the law of Ontario, a married man has a legal personality that is independent, separate and distinct from that of his wife and a married woman has a legal personality that is independent, separate and distinct from that of her husband.

(2) A married person has and shall be accorded legal capacity for all purposes and in all respects as if such person were an unmarried person.

(3) Without limiting the generality of subsections 1 and 2,^{Idem}

(a) each of the parties to a marriage has the like right of action in tort against the other as if they were not married;

(b) a married woman is capable of acting as guardian *ad litem* or next friend as if she were an unmarried woman;

(c) except as agreed between them, where a husband or wife contributes work, money or money's worth in respect of the acquisition, management, maintenance, operation or improvement of a business, including a farm, in which the other has a property interest, beyond such contribution as relates directly to the family residence, the husband or wife shall not be disentitled to any right to compensation or other interest flowing from such contribution by reason only of the relationship of husband and wife or that the acts constituting the contribution are those of a reasonable spouse of that sex in the circumstances;

(d) where the legal title to property is in the name of a husband or wife or both jointly, the beneficial interest shall be deemed to accompany the legal title, in the absence of proof of a contrary intention;

R.S.O. 1970,
c. 85

(e) notwithstanding sections 13 and 14 of *The Conveyancing and Law of Property Act*, where any legal or equitable interest in real property is acquired or held by a husband and wife, they shall be deemed to hold such interest as joint tenants, unless an intention sufficiently appears that they are to hold as tenants in common.

Purpose of
subs. 1 and 2

(4) The purpose of subsections 1 and 2 is to make the same law apply, and apply equally, to married men and married women and to remove any difference therein resulting from any common law rule or doctrine, and subsections 1 and 2 shall be so construed.

Application
of s. 1:
restraint
upon alien-
ation or
anticipation

2.—(1) Section 1 does not apply to interfere with or render inoperative any restriction upon anticipation or alienation attached to the enjoyment of any property by virtue of an instrument executed before this Act comes into force and for the purpose,

(a) a provision contained in an instrument made in exercise of a special power of appointment shall be deemed to be contained in that instrument only and not in the instrument by which the power was created; and

(b) the will of a testator shall be deemed to be an instrument executed on the day of his death.

Idem:
domicile

(2) Section 1 does not apply to affect the determination of domicile for any purpose.

Idem:
agency of
necessity

(3) Section 1 does not apply to affect the right of a wife to pledge her husband's credit for necessaries.

Actions
between
parent and
child

3. No person shall be disentitled from bringing an action or other proceeding against another for the reason only that they stand in the relationship of parent and child.

Recovery for
prenatal
injuries

4. No person shall be disentitled from recovering damages in respect of injuries incurred for the reason only that the injuries were incurred before his birth.

R.S.O. 1970,
c. 85, s. 13 (2),
repealed

5. Subsection 2 of section 13 of *The Conveyancing and Law of Property Act*, being chapter 85 of the Revised Statutes of Ontario, 1970, is repealed.

SECTION 2.—Subsection 1. The special rule permitting restraint on alienation of the property of a married woman is abolished by section 1 and this provision preserves the rule in respect of agreements previously entered into.

Subsection 2. The rule that the domicile of the husband is the domicile of the marriage is preserved.

Subsection 3. The right of a wife to pledge her husband's credit for necessaries is preserved.

SECTIONS 3 and 4. Actions for prenatal injuries and suits between parent and child are made possible as recommended by Part I of the Ontario Law Reform Commission's Report on Family Law dealing with torts.

SECTION 5. The provision repealed provides that where a husband and wife hold property in both names it is as tenants in common unless otherwise specified. This is inconsistent with section 1 (3) (e) of this Bill.

SECTION 6. The provision repealed excludes the liability of an insurer for injury to a spouse or child of the insured who is a passenger. The exclusion is based upon the incapacity of married persons to sue each other in tort which is removed.

SECTION 7. The Bill enables the repeal of all *The Married Women's Property Act* except section 12 which provides a procedure for determining disputes as to division of property between husband and wife. The question of the interest of husband and wife in marital property is not dealt with in this Bill.

SECTION 8. The section repealed prevents the recovery by a married person of the part of damages for negligence attributable to the contributory negligence of the married person's spouse. The provision is based upon the incapacity of married persons to sue each other in tort, which incapacity is removed by section 1 (3) (a) of this Bill.

6. Subclause i of clause b of section 214 of *The Insurance Act*, being chapter 224 of the Revised Statutes of Ontario, 1970, is repealed.
R.S.O. 1970,
c. 224,
s. 214(b)(i),
repealed

7. Sections 2 to 11 and section 13 of *The Married Women's Property Act*, being chapter 262 of the Revised Statutes of Ontario, 1970, are repealed.
R.S.O. 1970,
c. 262,
ss. 2-11, 13,
repealed

8. Subsection 4 of section 2 of *The Negligence Act*, being chapter 296 of the Revised Statutes of Ontario, 1970, is repealed.
R.S.O. 1970,
c. 296, s. 2(4),
repealed

9. Section 8 does not apply in respect of actions commenced before this Act comes into force.
Application
of s. 8

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
Commencement

11. This Act may be cited as *The Family Law Reform Act*, short title 1974.
Short title

BILL 117

An Act to reform certain Laws founded
upon Marital or Family Relationships

1st Reading

June 25th, 1974

2nd Reading

3rd Reading

THE HON. R. WELCH
Attorney General

(*Government Bill*)

CA2ON
XB
-B 56

Publications

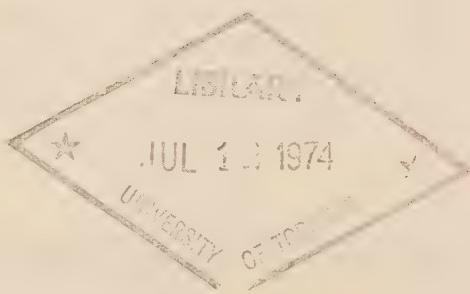
BILL 118

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Condominium Act

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2.—Subsection 1. The amendment amends the consents required to the registration of a declaration.

BILL 118

1974

An Act to amend The Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 1 of *The Condominium Act*, being chapter 77 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:

(ha) “declarant” means the owner or owners in fee simple of the land described in the description at the time of the registration of a declaration and description of the land, and includes any successor or assignee of such owner or owners but does not include a *bona fide* purchaser of a unit who actually pays fair market value or a *bona fide* mortgagee in possession of a unit;

(na) “proposed unit” means land described in an agreement of purchase and sale that provides for delivery to the purchaser of a deed or transfer capable of registration after a declaration and description have been registered in respect of the land.

2.—(1) Clause b of subsection 1 of section 3 of the said Act is repealed and the following substituted therefor:

(b) the consent, in the prescribed form, of every person having a registered charge, mortgage, lien, or other claim securing the payment of money against the land or interests appurtenant to the land described in the description, other than a municipality having a registered agreement with the owner of the land described in the description or with any predecessor in title of the owner.

- s. 3,
amended
- (2) The said section 3 is amended by adding thereto the following subsection:
- Change of
address
for service
- (5) Notwithstanding subsections 3 and 4, the corporation may by resolution of the board change its address for service and the change does not take effect until a notice thereof in the prescribed form is registered.
- s. 5 (1),
amended
- 3.—(1)** Subsection 1 of section 5 of the said Act is amended by striking out "master of titles and every registrar of deeds" in the first line and inserting in lieu thereof "land registrar".
- s. 5 (3),
amended
- (2) Subsection 3 of the said section 5 is amended by striking out "master of titles and every registrar of deeds" in the first line and inserting in lieu thereof "land registrar".
- s. 8a,
enacted
- 4.** The said Act is amended by adding thereto the following section:
- Easements
and leases
of common
elements
- 8a.—(1)** The corporation may, by a vote of a majority of the members,
- (a) lease any part of the common elements, except any part that the declaration specifies are to be used by the owners of one or more designated units and not by all the owners; and
- (b) grant or transfer an easement through the common elements.
- Binding on
all owners
- (2) A lease or a grant or transfer of an easement mentioned in subsection 1, signed by the authorized officers of the corporation under its seal, affects the interest of every owner in the common elements as if the lease, grant or transfer had been executed by him, and shall have attached thereto an affidavit of one of the officers stating that the lease, grant or transfer was authorized by a vote of a majority of the members.
- s. 9 (2),
re-enacted
- 5.—(1)** Subsection 2 of section 9 of the said Act is repealed and the following substituted therefor:
- Name of
corporation
- (2) The land registrar shall assign a name to each corporation or proposed corporation in accordance with the regulations.
- s. 9 (7),
re-enacted
- (2) Subsection 7 of the said section 9 is repealed and the following substituted therefor:

Subsection 2. The new subsection would allow the corporation to change its address for service by registering a notice in the prescribed form. At present the corporation can only change its address for service by amending the declaration, thus requiring the consent of all owners and all persons having registered encumbrances against the units and common elements.

SECTION 3. The titles of land registrars are made to accord with 1972 amendments to *The Land Titles Act* and *The Registry Act*.

SECTION 4. The new section allows the corporation, on behalf of every owner, to grant easements for the provision of services through the common elements and to lease any part of the common elements other than those parts designated as limited common elements.

SECTION 5.—Subsection 1. The new subsection 2 provides authority for the land registrar to assign a name to a corporation in accordance with the regulations.

Subsection 2. The new provisions provide for the filling of vacancies in the board of directors by appointment and the removal of directors.

SECTION 6. The new sections *9a* and *9b* provide for compulsory annual meetings, the giving of notice of such meetings and a record date for the giving of such notice. They also provide for the termination of the board of directors who are elected at a time when the developer is the owner of a majority of the units, and the election of a new board. They additionally deal with other meetings and allow for a stipulated percentage of the members of the corporation to compel the board to call a meeting.

(7) If a vacancy in the membership of the board occurs,^{Vacancy} the majority of the remaining members of the board may appoint any person qualified to be a member of the board under the declaration or by-laws to fill the vacancy for the remainder of the term.

(7a) Any director may be removed before the expiration^{Removal} of his term by a vote of members who together own a majority of the units and the members may elect any person qualified to be a member of the board under the declaration or by-laws for the remainder of the term of the director removed.

6. The said Act is further amended by adding thereto the ^{ss. 9a, 9b,} ~~enacted~~ following sections:

9a.—(1) A corporation shall hold an annual meeting^{of Annual meetings} of the members not more than three months after the registration of the declaration and description, and subsequently not more than fifteen months after the holding of the last preceding annual meeting, and at such meeting any member of the corporation or any mortgagee or chargee entitled to vote shall have an opportunity to raise any matter relevant to the affairs and business of the corporation.

(2) The board may at any time call a meeting^{of the Other meetings} of members of the corporation for the transaction of any business, the nature of which shall be specified in the notice calling the meeting.

(3) The board shall, upon receipt of a requisition^{in Requisition for members' meeting} made by members of the corporation who together own at least 25 per cent of the common elements, call and hold a meeting of the members of the corporation and if the meeting is not called and held within thirty days of receipt of the requisition, any of the requisitionists may call the meeting, and in such case, the meeting shall be held within sixty days of receipt of the requisition.

(4) The requisition shall state the nature of the business^{Requisition} to be presented at the meeting, and shall be signed by the requisitionists and deposited at the address for service of the corporation.

(5) At least ten days written notice^{of Notice} of every meeting of the members of the corporation specifying the place, the date and the hour thereof and the nature of the business to be presented shall be given to each member and to each mortgagee or chargee entitled to vote, personally or

by prepaid mail addressed to him at the address provided under subsection 6.

Record
for notice

(6) The corporation shall maintain a record upon which shall be entered each owner or mortgagee or chargee who notifies the corporation of his entitlement to vote and of his address for service and the notice of a meeting required by subsection 5 shall be deemed to be sufficiently given if given in accordance with subsection 5 to those persons entered on the record twelve days before the date of the meeting.

Right to
vote

(7) A mortgagee or chargee who receives a notice shall, in order to be entitled to exercise the right of the owner to vote or to consent, notify the corporation and the owner of his intention to exercise such right at least two days before the date specified in the notice for the meeting.

Election of
new board

9b.—(1) The board elected at a time when the declarant owns a majority of the units shall, not more than twenty-one days after the declarant ceases to be the registered owner of a majority of the units, call a meeting of the members of the corporation to elect a new board of directors, and such meeting shall be held within twenty-one days after the calling of the meeting.

Member, etc.,
may call
meeting

(2) If the meeting referred to in subsection 1 is not called within the time provided for by that subsection, any member of the corporation, or any mortgagee or chargee entitled to vote may call the meeting.

s. 10 (1),
amended

7. Subsection 1 of section 10 of the said Act is amended by adding thereto the following clause:

(ha) authorizing the borrowing of money to carry out the objects and duties of the corporation.

s. 11 (1),
amended

8. Subsection 1 of section 11 of the said Act is amended by inserting after "by" in the first line "a majority of".

s. 13 (4),
re-enacted

9. Subsection 4 of section 13 of the said Act is repealed and the following substituted therefor:

Lien

(4) Where an owner defaults in his obligation to contribute to the corporation towards the common expenses in the proportion allocated to his unit, the corporation has a lien for the unpaid amount against that unit and its appurtenant common interest.

SECTION 7. The amendment permits by-laws for borrowing purposes.

SECTION 8. The amendment ensures that the making of rules respecting the use of common elements requires a majority of owners.

SECTION 9. Provision is made to secure arrears of payments respecting common expenses by a lien against the unit.

SECTION 10. The amendment removes doubt as to whether a corporation has a dominant tenancy capable of supporting its rights as the grantor of an easement.

SECTION 11. The new section 15a provides for the termination of management agreements entered into before the owners outvote the declarant.

The new section 15b allows the corporation, or any unit owner, mortgagee or chargee to examine the records of every person in receipt of money for the payment of common expenses with respect to the disposition of such money. The section additionally allows the corporation or any unit owner or mortgagee or chargee to apply to the court for an investigation or audit of that person and requires that all such money be held as trust money in an approved banking depository.

(4a) The lien mentioned in subsection 4 expires three months after the default that gave rise to the lien first occurred unless the corporation within that time registers a notice of lien in the prescribed form.

10. Section 14 of the said Act is amended by adding thereto the following subsection:

(1a) A grant or transfer of an easement to the corporation is as effective as if the corporation owns land capable of being benefitted by the easement.

11. The said Act is further amended by adding thereto the following sections:

MANAGEMENT AGREEMENT

15a. The corporation may, by a vote of members who own 66 2/3 per cent of the common elements, terminate, on giving sixty days notice in writing, any agreement between the corporation and any person for the management of the property entered into at a time when the majority of the members of the board of directors were elected when the declarant was the registered owner of a majority of the units.

INVESTIGATION OF RECORDS

15b.—(1) Every person in receipt of money paid by or on behalf of an owner for the payment of common expenses shall, upon reasonable notice and during normal business hours, make available for examination by the corporation or any owner, mortgagee or chargee, all records relating to the disposition of such money.

(2) Upon application to a judge of a county or district court by the corporation or any owner, mortgagee or chargee, the judge, if satisfied that the application is made in good faith and that it is *prima facie* in the best interests of the applicant to do so, may make an order, upon such terms as to the costs of the investigation or audit or otherwise as he considers proper, appointing an inspector to make such investigation of the affairs of any person in receipt of money mentioned in subsection 1 and to make such audit of the accounts and records of such person as the judge considers necessary.

(3) An inspector appointed under subsection 2 has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation or audit as if it were an inquiry under that Act.

Trust
money

(4) All money received for the payment of common expenses after the 1st day of January, 1975 shall be held by the person in receipt thereof in trust for the performance of the duties and obligations in respect of which the money is paid, and he shall pay such money into a separate account at a chartered bank or trust company or a loan company authorized by law to receive money on deposit or a Province of Ontario Savings Office and shall designate the account as a trust account.

s. 23 (1),
amended

12.—(1) Subsection 1 of section 23 of the said Act is amended by striking out “Supreme Court” in the fourth line and inserting in lieu thereof “county or district court”.

s. 23,
amended

(2) Section 23 of the said Act is amended by adding thereto the following subsection:

Application
to lessees

(2a) The lessee of a unit is subject to the duties imposed by this Act, the declaration and the by-laws, on an owner, except those duties respecting common expenses, and this section applies in the same manner as to an owner and where the lessee is in contravention of an order under this section, the court may terminate the lease.

ss. 24a, 24b,
enacted

13. The said Act is further amended by adding thereto the following sections:

SALE AND LEASE OF UNITS

Implied
covenants in
agreements
of purchase
and sale

24a.—(1) Every agreement of purchase and sale entered into by a proposed declarant for a proposed unit for residential purposes shall be deemed to contain,

(a) a covenant by the vendor to take all reasonable steps to register a declaration and description in respect of the property in which the unit is included without delay;

(b) a covenant by the vendor to take all reasonable steps to sell the other units included in the property without delay other than any units mentioned in a statement under clause c of subsection 1 of section 24d; and

(c) a covenant by the vendor to take all reasonable steps to deliver to the purchaser a registrable deed or transfer of the unit without delay.

Failure to
register
declaration
within a
specified
period

(2) Notwithstanding any provision to the contrary contained therein, an agreement of purchase and sale of a proposed

SECTION 12.—Subsection 1. The amendment provides for applications to compel owners to comply with the Act, declaration and by-laws to be made to the county court instead of the Supreme Court.

Subsection 2. The new provision makes lessees subject to the duties of owners and breach of an order of the court for compliance may result in termination of the lease.

SECTION 13. The new section 24a implies certain covenants in agreements of purchase and sale of proposed units. It also protects purchasers of units where the declaration and description are not registered within a period of time specified in the agreement of purchase and sale and where the purchaser is required or permitted to occupy the unit before the declaration and description are registered.

The new section 24b requires the declarant to disclose certain intentions to a proposed purchaser and to show any changes therein at the time the declaration and description is registered so the purchaser can assess his right to terminate because of material change. When the declarant understates the amount of common expenses he is required to pay the excess.

unit for residential purposes shall not be terminated by the proposed declarant only by reason of the failure to register the declaration and description within a period of time specified in the agreement, unless the purchaser consents to the termination in writing.

(3) Notwithstanding subsection 2, the proposed declarant ^{Application to court} may apply to a judge of a county or district court and the judge may by order terminate the agreement if he is satisfied that,

- (a) the proposed declarant has taken all reasonable steps to register a declaration and description;
- (b) a declaration and description cannot be registered within a reasonable period of time; and
- (c) the failure and inability to register a declaration and description is caused by circumstances beyond the control of the proposed declarant.

(4) The judge may, in an order under subsection 3 ^{Subsequent registration under Act} provide that a declaration and description shall not be registered in respect of the property in which the proposed unit is included during such period as he specifies in the order.

(5) An order under subsection 3 is ineffective until a ^{Registration of order} certified copy thereof is registered.

(6) Where an agreement of purchase and sale entered ^{Payments of purchase price} into by a proposed declarant for a proposed unit for residential purposes permits or requires the purchaser to take possession of or occupy the unit before a deed or transfer of the unit acceptable for registration is delivered to him, the money paid in respect of such right or obligation to the proposed declarant shall be credited as payments of the purchase price unless the agreement states that the money or any part of it will not be so credited.

24b.—(1) An agreement of purchase and sale entered into ^{Disclosure before sale} by a declarant of a unit for residential purposes is not binding on the purchaser unless the declarant has previously delivered to the purchaser a copy of,

- (a) the declaration;
- (b) those parts of the description showing,

- (i) the perimeter of the horizontal surface of the land and the perimeter of the buildings,
 - (ii) the shape and dimensions of the unit, the boundaries of the unit by reference to the buildings and the approximate location of the unit in relation to the other units and the buildings, and
 - (iii) any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;
 - (c) any by-law; and
 - (d) any agreement for the management of the property or for the provision of services to or otherwise affecting the common elements.
- Idem**
- (2) An agreement of purchase and sale entered into by a proposed declarant for a proposed unit for residential purposes shall not be binding on the purchaser unless the proposed declarant has previously delivered to the purchaser a copy of,
 - (a) the proposed declaration;
 - (b) those parts of the proposed description showing,
 - (i) the perimeter of the horizontal surface of the land and perimeter of the buildings,
 - (ii) the shape and dimensions of the unit, the boundaries of the unit by reference to the buildings and the approximate location of the units in relation to the other units and the buildings, and
 - (iii) any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;
 - (c) any proposed by-law;
 - (d) any agreement or proposed agreement for the management of the property or for the provision of services to or otherwise affecting the common elements; and
 - (e) a statement setting out the monthly amount to be contributed to the common expenses by the purchaser for the twelve months immediately following the registration of the declaration and description.

SECTION 14. The new section 24c provides that any money received by a condominium developer on the sale of a unit is trust money and is to be held in approved banking depositories until completion of registration of the condominium corporation. Where the purchaser is entitled to the money on termination, interest thereon is payable.

(3) Where an agreement of purchase and sale to which subsection 2 applies has been entered into, the proposed declarant shall, at least ten days before delivering a deed or transfer for the unit to the purchaser, deliver to the purchaser a further copy of each document or instrument mentioned in subsection 1 or confirmation that the document or instrument is identical in all substantial or material respects to a corresponding document or instrument previously delivered to him under subsection 2.

(4) Where the common expenses for any month exceed the amount set out in the statement mentioned in clause e of subsection 2, the declarant shall forthwith pay to the corporation the amount in excess of the amount set out in the statement except where the amount to be contributed to the common expenses is fixed by a vote of $66\frac{2}{3}$ per cent of the owners of units, other than the declarant.

(5) This section does not apply to agreements of purchase and sale entered into before the 1st day of January, 1975.

14. The said Act is further amended by adding thereto the following section:

24c.—(1) All money received by or on behalf of a proposed declarant on account of a sale or an agreement for the purchase and sale of a proposed unit for residential purposes before the registration of the declaration and description, other than money paid as rent or as an occupancy charge, shall be held in trust by that person for the person entitled thereto in respect of the agreement and such money shall be held in a separate account designated as a trust account at a chartered bank or trust company or loan company authorized by law to receive money on deposit or a Province of Ontario Savings Office until,

(a) its disposition to the person entitled thereto under the terms of the agreement or after its termination; or

(b) delivery of prescribed security to the purchaser for repayment.

(2) Where an agreement of purchase and sale referred to in subsection 1 is terminated and the purchaser is entitled to the return of any money paid under the agreement, the proposed declarant shall pay to the purchaser interest at the prescribed rate.

(3) Subject to subsection 2, where a purchaser of a proposed unit under an agreement of purchase and sale

referred to in subsection 1 enters into possession or occupation of the unit before a deed or transfer of the unit acceptable for registration is delivered to him, the proposed declarant shall pay interest at the prescribed rate on all money received by him on account of the purchase price.

Idem

(4) Subject to subsections 2 and 3, the proposed declarant is entitled to any interest earned on the money required to be held in trust under subsection 1.

Application
of section

(5) This section does not apply in respect of money received before the day on which section 14 of *The Condominium Amendment Act, 1974* comes into force.

ss. 24d, 24e,
enacted

15. The said Act is further amended by adding thereto the following sections:

Leases
of units

24d.—(1) A declarant or proposed declarant shall not grant a lease of a unit or proposed unit for residential purposes unless,

- (a) the lessee has entered into a *bona fide* agreement to purchase the unit;
- (b) the lease grants to the lessee a *bona fide* option to purchase the unit;
- (c) every agreement of purchase and sale of a unit included in the property includes a statement that the unit to be included in the lease is or will be leased and specifies the uses that are or will be permitted by the lease; or
- (d) written notice of the lessor's intention to lease the unit has been given to every purchaser under an agreement of purchase and sale, registered owner and mortgagee and chargee entitled to vote, and the period referred to in subsection 2 has expired or, where an application is made under subsection 2, it is finally disposed of.

Application
to court

(2) Any person notified under clause d of subsection 1 may, within twenty-one days after receiving the notice, apply to a judge of a county or district court, and the judge, if he is of the opinion that the declarant has not taken all reasonable steps to sell the unit, may by order prohibit the declarant from leasing the unit or grant such other relief as he considers proper.

SECTION 15. The new section 24d limits the developers right to lease a unit both before and after the registration of the declaration and description.

The new section 24e provides for penalties.

SECTION 16. The amendment authorizes regulations in respect of the matters contained in the clauses.

(3) The notice mentioned in clause *d* of subsection 1^{Contents of notice} shall specify the unit or units intended to be leased and the uses that will be permitted by the lease but need not set out any other terms or identify any proposed lessee.

(4) A declarant or proposed declarant shall not grant a^{Term of lease} lease of a unit or proposed unit for residential purposes for a period of more than four years, including renewals.

(5) This section does not apply to the renewal of a lease^{Exemption} of a unit or proposed unit entered into before any agreement of purchase and sale of any unit or proposed unit included in the property is entered into.

(6) In this section, "lease" includes a license to use or^{Lease, defined} occupy and any agreement in the nature of a lease.

24e. Every person who knowingly contravenes subsection 1 or 4 of section 15*b*, or subsection 1 of section 24*c*, or knowingly purports to enter into a lease in contravention of subsection 1 or 4 of section 24*d*, is guilty of an offence and on summary conviction is liable to a fine of,

- (a) not more than \$25,000, where the person is a corporation; or
- (b) not more than \$2,000, where the person is other than a corporation.

16. Clause *k* of subsection 1 of section 25 of the said Act is^{s. 25 (1) (k), re-enacted} repealed and the following substituted therefor:

- (*k*) governing funds intended for the payment of common expenses;
- (*l*) requiring and governing the books, accounts and records that shall be kept by condominium corporations and requiring and governing the accounting to members of condominium corporations in such manner and at such times as are prescribed;
- (*m*) exempting any class of person from this Act or the regulations or any provision thereof;
- (*n*) prescribing security for the purposes of clause *c* of subsection 1 of section 24*a*;
- (*o*) prescribing rates of interest that shall be paid on moneys required to be held in trust under this Act.

s. 26,
enacted

17. The said Act is further amended by adding thereto the following section:

LEASEHOLD CONDOMINIUMS

Registration
of leasehold
condo-
minium

26.—(1) A person who is the lessee of land owned by and leased from the Crown or any agency of the Crown designated in the regulations for a term of not less than ninety-nine years may, with the consent of the Crown or the agency, register a declaration and description.

Registration
by Crown

(2) The Crown or agency may enter into a lease of land with itself for the purposes of this section, in which case the lease shall not merge in the fee by operation of law.

Application
of Act

(3) Upon the registration of a declaration and description under this section, the land and the interests appurtenant to the land described in the description are governed by this Act which, subject to subsection 6, applies *mutatis mutandis* thereto.

Assignments
of units

(4) The lessee from the Crown or agency who registers a declaration and description under this section may assign or transfer the leasehold estate in respect of each unit designated in the description and for the purposes of this Act he shall be deemed to be the declarant and the assignee shall be deemed to be the owner of the unit.

Application
of
R.S.O. 1970,
c. 236

(5) Part IV of *The Landlord and Tenant Act* does not apply in respect of leases or assignments or transfers thereof that are subject to this section.

Regulations

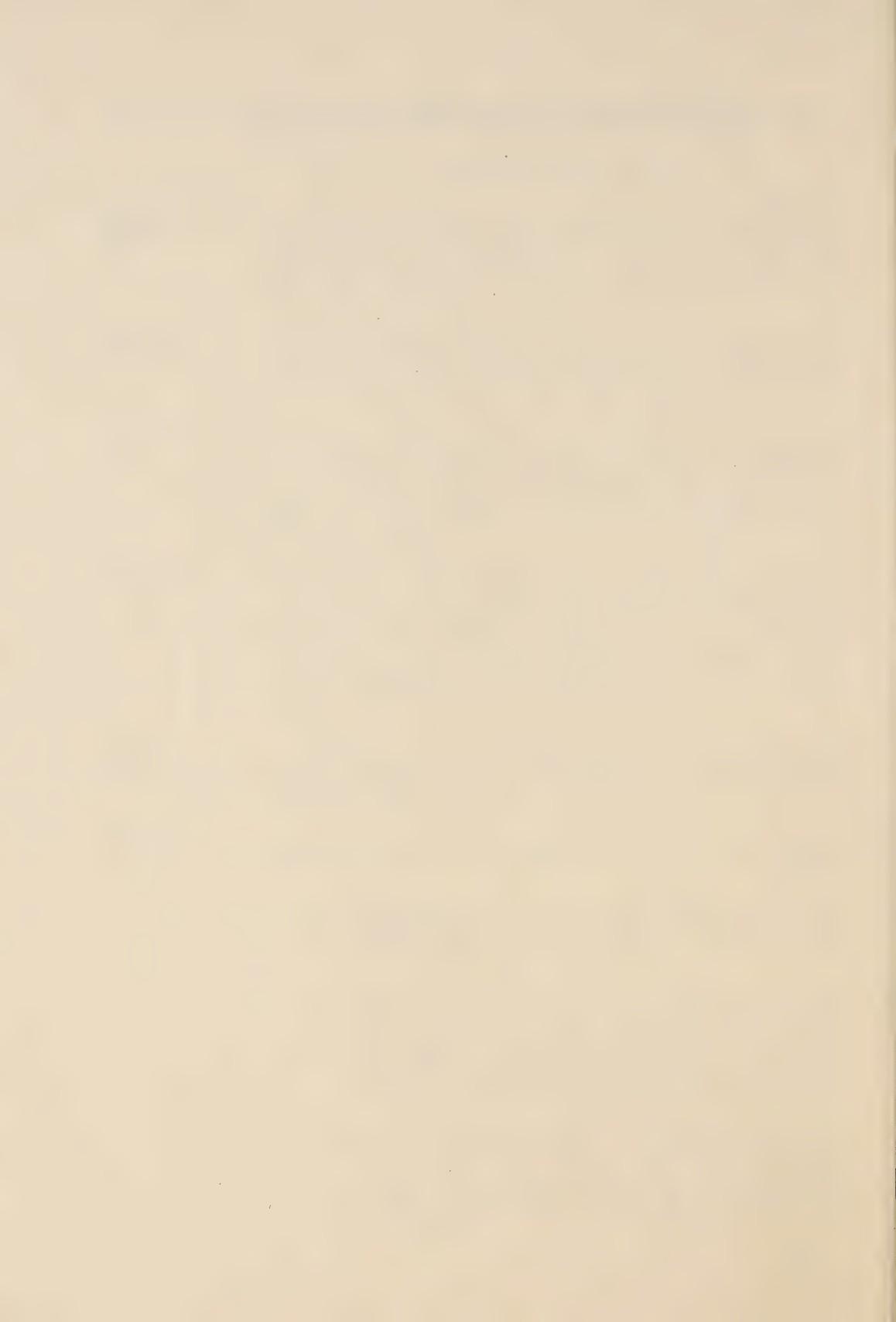
(6) The Lieutenant Governor in Council may make regulations,

(a) designating provisions of this Act that do not apply to properties in respect of which this section applies;

(b) making such modifications to the application of the provisions of this Act, other than this section, that apply to properties under this section as are considered necessary to adapt their application *mutatis mutandis* to leasehold condominium projects;

(c) providing for such matters as are considered necessary for the purpose of effecting condominium projects in respect of leasehold land that are equivalent to those provided for by this Act in respect of freehold land.

SECTION 17. The new provision enables condominiums to be created on land under long-term lease from the Crown.



- 18.**—(1) This Act, except sections 14 and 17, comes into force ^{Commencement} on the 1st day of January, 1975.
- (2) Sections 14 and 17 come into force on a day to be ^{Idem} named by proclamation of the Lieutenant Governor.
- 19.** This Act may be cited as *The Condominium Amendment Act*, ^{Short title} 1974.

An Act to amend
The Condominium Act

1st Reading

June 25th, 1974

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial
Relations

(*Government Bill*)

CA2ON

BILL 118

X B

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Condominium Act

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations



(Reprinted as amended by the Administration of Justice Committee)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2.—Subsection 1. The amendment amends the consents required to the registration of a declaration.

BILL 118

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 1 of *The Condominium Act*, being chapter 77 of the Revised Statutes of Ontario, 1970, is amended ^{s.1(1),} amended by adding thereto the following clauses:

(ha) “declarant” means the owner or owners in fee simple of the land described in the description at the time of the registration of a declaration and description of the land, and includes any successor or assignee of such owner or owners but does not include a *bona fide* purchaser of a unit who actually pays fair market value or any successor or assignee of such purchaser;

(na) “proposed unit” means land described in an agreement of purchase and sale that provides for delivery to the purchaser of a deed or transfer capable of registration after a declaration and description have been registered in respect of the land.

- 2.—(1) Clause b of subsection 1 of section 3 of the said Act ^{s.3(1)(b),} re-enacted is repealed and the following substituted therefor:

(b) the consent, in the prescribed form, of every person having a registered charge, mortgage, lien, or other claim securing the payment of money against the land or interests appurtenant to the land described in the description, other than a municipality having a registered agreement with the owner of the land described in the description or with any predecessor in title of the owner.

s. 3.
amended

(2) The said section 3 is amended by adding thereto the following subsections:

Change of
address
for service

(5) Notwithstanding subsections 3 and 4, the corporation may by resolution of the board change its address for service and the change does not take effect until a notice thereof in the prescribed form is registered.

Amendment
by judge



(6) The corporation on at least seven days notice to every owner, or an owner on at least seven days notice to the corporation and every other owner, may apply to a judge of the county or district court for an order amending the declaration or description and the judge, if he is satisfied that an amendment is necessary or desirable to correct a manifest error or inconsistency in the declaration or description or arising out of the carrying out of the intent and purpose of the declaration or description, may make the order.

Registration

(7) An amendment to a declaration or description made by an order under subsection 6 is ineffective until a certified copy of the order is registered.



s. 5 (1),
amended

3.—(1) Subsection 1 of section 5 of the said Act is amended by striking out "master of titles and every registrar of deeds" in the first line and inserting in lieu thereof "land registrar".

s. 5 (3),
amended

(2) Subsection 3 of the said section 5 is amended by striking out "master of titles and every registrar of deeds" in the first line and inserting in lieu thereof "land registrar".

s. 8a,
enacted

4. The said Act is amended by adding thereto the following section:

Easements
and leases
of common
elements

8a.—(1) The corporation may, by by-law,

(a) lease any part of the common elements, except any part that the declaration specifies are to be used by the owners of one or more designated units and not by all the owners; and

(b) grant or transfer an easement or licence through the common elements.

Binding on
all owners

(2) A lease or a grant or transfer of an easement or licence mentioned in subsection 1, signed by the authorized officers of the corporation under its seal, affects the interest of every owner in the common elements as if the lease, grant or transfer had been executed by him, and shall have attached thereto an affidavit of one of the officers stating that the lease, grant or transfer was authorized by a by-law of the corporation.

 Subsection 2. The new subsection 5 would allow the corporation to change its address for service by registering a notice in the prescribed form. At present the corporation can only change its address for service by amending the declaration, thus requiring the consent of all owners and all persons having registered encumbrances against the units and common elements.

The amendment also enables a declaration or description to be amended by a judge to correct a manifest error or inconsistency. 

SECTION 3. The titles of land registrars are made to accord with 1972 amendments to *The Land Titles Act* and *The Registry Act*.

SECTION 4. The new section allows the corporation, on behalf of every owner, to grant easements or licences for the provision of services through the common elements and to lease any part of the common elements other than those parts designated as limited common elements.

SECTION 5.—Subsection 1. The new subsection 2 provides authority for the land registrar to assign a name to a corporation in accordance with the regulations.

Subsection 2. The new provisions provide for the filling of vacancies in the board of directors by appointment and the removal of directors.

SECTION 6. The new sections 9a and 9b provide for compulsory annual meetings, the giving of notice of such meetings and a record date for the giving of such notice. They also provide for the termination of the board of directors who are elected at a time when the developer is the owner of a majority of the units, and the election of a new board. They additionally deal with other meetings and allow for a stipulated percentage of the members of the corporation to compel the board to call a meeting.

5.—(1) Subsection 2 of section 9 of the said Act is repealed ^{s. 9 (2),} re-enacted and the following substituted therefor:

(2) The land registrar shall assign a name to each ^{Name of} corporation corporation or proposed corporation in accordance with the regulations.

(2) Subsection 7 of the said section 9 is repealed and the ^{s. 9 (7),} re-enacted following substituted therefor:

(7) If a vacancy in the membership of the board occurs, Vacancy the majority of the remaining members of the board may appoint any person qualified to be a member of the board under the declaration or by-laws to fill the vacancy for the remainder of the term.

(7a) Any director may be removed before the expiration ^{Removal} of his term by a vote of members who together own a majority of the units and the members may elect any person qualified to be a member of the board under the declaration or by-laws for the remainder of the term of the director removed.

6. The said Act is further amended by adding thereto the ^{ss. 9a, 9b,} enacted following sections:

9a.—(1) A corporation shall hold an annual meeting of ^{Annual} meetings the members not more than three months after the registration of the declaration and description, and subsequently not more than fifteen months after the holding of the last preceding annual meeting, and at such meeting any member of the corporation or any mortgagee or chargee entitled to vote shall have an opportunity to raise any matter relevant to the affairs and business of the corporation.

(2) The board may at any time call a meeting of the ^{Other} meetings members of the corporation for the transaction of any business, the nature of which shall be specified in the notice calling the meeting.

(3) The board shall, upon receipt of a requisition in ^{Requisition} for members writing made by members of the corporation who together own at least 25 per cent of the common elements, call and hold a meeting of the members of the corporation and if the meeting is not called and held within thirty days of receipt of the requisition, any of the requisitionists may call the meeting, and in such case, the meeting shall be held within sixty days of receipt of the requisition.

Requisition

(4) The requisition shall state the nature of the business to be presented at the meeting, and shall be signed by the requisitionists and deposited at the address for service of the corporation.

Notice

(5) At least ten days written notice of every meeting of the members of the corporation specifying the place, the date and the hour thereof and the nature of the business to be presented shall be given to each member and to each mortgagee or chargee entitled to vote, personally or by prepaid mail addressed to him at the address provided under subsection 6.

Record
for notice

(6) The corporation shall maintain a record upon which shall be entered each owner or mortgagee or chargee who notifies the corporation of his entitlement to vote and of his address for service and the notice of a meeting required by subsection 5 shall be deemed to be sufficiently given if given in accordance with subsection 5 to those persons entered on the record twelve days before the date of the meeting.

Right to
vote

(7) A mortgagee or chargee who receives a notice shall, in order to be entitled to exercise the right of the owner to vote or to consent, notify the corporation and the owner of his intention to exercise such right at least two days before the date specified in the notice for the meeting.

Election of
new board

9b.—(1) The board elected at a time when the declarant owns a majority of the units shall, not more than twenty-one days after the declarant ceases to be the registered owner of a majority of the units, call a meeting of the members of the corporation to elect a new board of directors, and such meeting shall be held within twenty-one days after the calling of the meeting.

Member, etc.,
may call
meeting

(2) If the meeting referred to in subsection 1 is not called within the time provided for by that subsection, any member of the corporation, or any mortgagee or chargee entitled to vote may call the meeting.

s. 10 (1),
amended

7. Subsection 1 of section 10 of the said Act is amended by adding thereto the following clause:

(ha) authorizing the borrowing of money to carry out the objects and duties of the corporation.

s. 11 (1),
amended

 8. Subsection 1 of section 11 of the said Act is amended by striking out "owners" in the second line and inserting in lieu

SECTION 7. The amendment permits by-laws for borrowing purposes.

SECTION 8. The amendment ensures that the making of rules respecting the use of common elements requires a majority of owners.

 SECTION 9. The amendment ensures that political canvassers will not be denied entrance to condominium buildings. 

SECTION 10. Provision is made to secure arrears of payments respecting common expenses by a lien against the unit.

SECTION 11. The amendment removes doubt as to whether a corporation has a dominant tenancy capable of supporting its rights as the grantor of an easement.

SECTION 12. The new section 15a provides for the termination of management agreements entered into before the owners outvote the declarant.

The new section 15b allows the corporation, or any unit owner, mortgagee or chargee to examine the records of every person in receipt of money for the payment of common expenses with respect to the disposition of such money. The section additionally allows the corporation or any unit owner or mortgagee or chargee to apply to the court for an investigation or audit of that person and requires that all such money be held as trust money in an approved banking depository.

thereof "members of the corporation who together own a majority of the units".

- 9.** The said Act is further amended by adding thereto the following section:

11a. No corporation or servant or agent of a corporation shall restrict reasonable access to the property by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly, any office in a municipal government or school board for the purpose of canvassing or distributing election material.

- 10.** Subsection 4 of section 13 of the said Act is repealed and the following substituted therefor:

(4) Where an owner defaults in his obligation to contribute to the corporation towards the common expenses in the proportion allocated to his unit, the corporation has a lien for the unpaid amount against that unit and its appurtenant common interest.

(4a) The lien mentioned in subsection 4 expires three months after the default that gave rise to the lien first occurred unless the corporation within that time registers a notice of lien in the prescribed form.

(4b) Any person acquiring an interest in a unit from an owner may, with the consent of the owner, request the corporation to give a certificate in the prescribed form in respect of the common expenses of the owner and of default in payment thereof, if any, by the owner, and the certificate binds the corporation as against the person requesting the certificate in respect of any default or otherwise shown in the certificate, as of the day it is given.

(4c) The corporation shall give the certificate requested under subsection 4b within seven days after its receipt of the request therefor and where the corporation fails to give the certificate within the time prescribed, the corporation shall be deemed, as against the person requesting the certificate, to have given a certificate stating no default.

- 11.** Section 14 of the said Act is amended by adding thereto the following subsection:

(1a) A grant or transfer of an easement to the corporation is as effective as if the corporation owns land capable of being benefited by the easement.

- 12.** The said Act is further amended by adding thereto the following sections:

MANAGEMENT AGREEMENT

Management
agreement

15a. The corporation may, by a vote of members who own 66-2/3 per cent of the common elements, terminate, on giving sixty days notice in writing, any agreement between the corporation and any person for the management of the property entered into at a time when the majority of the members of the board of directors were elected when the declarant was the registered owner of a majority of the units.

Examination
of records

15b.—(1) Every person in receipt of money paid by or on behalf of an owner for the payment of common expenses shall, upon reasonable notice and during normal business hours, make available for examination by the corporation or any owner, mortgagee or chargee, all records relating to the disposition of such money.

Application
to court

(2) Upon application to a judge of a county or district court by the corporation or any owner, mortgagee or chargee, the judge, if satisfied that the application is made in good faith and that it is *prima facie* in the best interests of the applicant to do so, may make an order, upon such terms as to the costs of the investigation or audit or otherwise as he considers proper, appointing an inspector to make such investigation of the affairs of any person in receipt of money mentioned in subsection 1 and to make such audit of the accounts and records of such person as the judge considers necessary.

Powers of
inspector
1971, c. 49

(3) An inspector appointed under subsection 2 has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation or audit as if it were an inquiry under that Act.

Trust
money

(4) All money received for the payment of common expenses relating to a property after the 1st day of April, 1975 shall be held by the person in receipt thereof in trust for the performance of the duties and obligations in respect of which the money is paid, and he shall pay such money into a separate account at a chartered bank or trust company or a loan company authorized by law to receive money on deposit or a Province of Ontario Savings Office and shall designate the account as a trust account.

s. 23 (1),
amended

13.—(1) Subsection 1 of section 23 of the said Act is amended by striking out "Supreme Court" in the fourth line and inserting in lieu thereof "county or district court".

SECTION 13.—Subsection 1. The amendment provides for applications to compel owners to comply with the Act, declaration and by-laws to be made to the county court instead of the Supreme Court.

Subsection 2. The new provision makes lessees subject to the duties of owners and breach of an order of the court for compliance may result in termination of the lease.

SECTION 14. The new section 24a implies certain covenants in agreements of purchase and sale of proposed units. It also protects purchasers of units where the declaration and description are not registered within a period of time specified in the agreement of purchase and sale and where the purchaser is required or permitted to occupy the unit before the declaration and description are registered.

The new section 24b requires the declarant to disclose certain intentions to a proposed purchaser and to show any changes therein at the time the declaration and description is registered so the purchaser can assess his right to terminate because of material change. When the declarant understates the amount of common expenses he is required to pay the excess.

(2) Section 23 of the said Act is amended by adding thereto <sup>s. 23,
amended</sup> the following subsection:

(2a) The lessee of a unit is subject to the duties imposed <sup>Application
to lessees</sup> by this Act, the declaration and the by-laws, on an owner, except those duties respecting common expenses, and this section applies in the same manner as to an owner and where the lessee is in contravention of an order under this section, the court may terminate the lease.

14. The said Act is further amended by adding thereto the follow- <sup>ss. 24a, 24b,
enacted</sup> ing sections:

SALE AND LEASE OF UNITS

24a.—(1) Every agreement of purchase and sale entered into by a proposed declarant for a proposed unit for residential purposes shall be deemed to contain, <sup>Implied
covenants in
agreements of purchase
and sale</sup>

- (a) a covenant by the vendor to take all reasonable steps to register a declaration and description in respect of the property in which the unit is included without delay;
- (b) a covenant by the vendor to take all reasonable steps to sell the other residential units included in the property without delay other than any units mentioned in a statement under clause c of subsection 1 of section 24d; and
- (c) a covenant by the vendor to take all reasonable steps to deliver to the purchaser a registrable deed or transfer of the unit without delay.

(2) Notwithstanding any provision to the contrary contained therein, an agreement of purchase and sale of a proposed unit for residential purposes shall not be terminated by the proposed declarant only by reason of the failure to register the declaration and description within a period of time specified in the agreement, unless the purchaser consents to the termination in writing. <sup>Failure to
register
declaration
within a
specified
period</sup>

(3) Notwithstanding subsection 2, the proposed declarant <sup>Application
to court</sup> may apply to a judge of a county or district court and the judge may by order terminate the agreement if he is satisfied that,

- (a) the proposed declarant has taken all reasonable steps to register a declaration and description;
- (b) a declaration and description cannot be registered within a reasonable period of time; and

Subsequent registration under Act

(c) the failure and inability to register a declaration and description is caused by circumstances beyond the control of the proposed declarant.

Registration of order

(4) The judge may, in an order under subsection 3, provide that a declaration and description shall not be registered in respect of the property in which the proposed unit is included during such period as he specifies in the order.

Payments of purchase price

(5) An order under subsection 3 is ineffective until a certified copy thereof is registered.

(6) Where an agreement of purchase and sale entered into by a proposed declarant for a proposed unit for residential purposes permits or requires the purchaser to take possession of or occupy the unit before a deed or transfer of the unit acceptable for registration is delivered to him, the money paid in respect of such right or obligation to the proposed declarant shall be credited as payments of the purchase price unless the agreement states that the money or any part of it will not be so credited.

Disclosure before sale

24b.—(1) An agreement of purchase and sale entered into by a declarant of a unit for residential purposes is not binding on the purchaser unless the declarant has previously delivered to the purchaser a copy of,

(a) the declaration;

(b) those parts of the description showing,

(i) the perimeter of the horizontal surface of the land and the perimeter of the buildings,

(ii) the shape and dimensions of the unit, the boundaries of the unit by reference to the buildings and the approximate location of the unit in relation to the other units and the buildings, and

(iii) any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;

(c) a statement of the recreational or other amenities intended to be provided by the declarant for the enjoyment of the owners and of the conditions, if any, that apply to the provision of such amenities;

- (d) any by-laws or any rules governing the use of common elements;
 - (e) any agreement for the management of the property or insurance trust agreement; and
 - (f) a budget statement prepared by the declarant for the year immediately following the registration of the declaration and description setting out the common expenses, the proposed amount of each expense, particulars of the service to be provided and the amount to be contributed by the purchaser for the year.
- (2) An agreement of purchase and sale entered into by a ^{Idem} proposed declarant for a proposed unit for residential purposes shall not be binding on the purchaser unless the proposed declarant has previously delivered to the purchaser a copy of,
- (a) the proposed declaration;
 - (b) those parts of the proposed description showing,
 - (i) the perimeter of the horizontal surface of the land and perimeter of the buildings,
 - (ii) the shape and dimensions of the unit, the boundaries of the unit by reference to the buildings and the approximate location of the units in relation to the other units and the buildings, and
 - (iii) any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;
 - (c) a statement of the recreational or other amenities intended to be provided by the declarant for the enjoyment of the owners and of the conditions, if any, that apply to the provision of such amenities;
 - (d) any proposed by-laws or any proposed rules governing the use of common elements;
 - (e) any agreement or proposed agreement for the management of the property or insurance trust agreement; and
 - (f) a budget statement prepared by the proposed declarant for the year immediately following the registration of the declaration and description setting

out the common expenses, the proposed amount of each expense, particulars of the service to be provided and the amount to be contributed by the purchaser for the year.

Further disclosure before transfer of title

(3) Where an agreement of purchase and sale to which subsection 2 applies has been entered into, the proposed declarant shall, at least ten days before delivering a deed or transfer for the unit to the purchaser, deliver to the purchaser a further copy of each document or instrument mentioned in subsection 1 or confirmation that the document or instrument is identical in all substantial or material respects to a corresponding document or instrument previously delivered to him under subsection 2.

Inaccurate statement of common expenses

(4) Where the total amount incurred for the common expenses provided for in the statement mentioned in clause *e* of subsection 2 exceeds the total of the proposed amounts set out in the statement, the declarant shall forthwith pay to the corporation the amount of the excess except in respect of increased expenses referable to the determination of an agreement under section 15a.

Application of section

(5) This section does not apply to agreements of purchase and sale entered into before the 1st day of April, 1975.

s. 24c,
enacted

15. The said Act is further amended by adding thereto the following section:

Trust money

24c.—(1) All money received by or on behalf of a proposed declarant from a purchaser on account of a sale or an agreement for the purchase and sale of a proposed unit for residential purposes before the registration of the declaration and description, other than money paid as rent or as an occupancy charge, shall be held in trust by the person receiving such money for the person entitled thereto in respect of the agreement and such money shall be held in a separate account designated as a trust account at a chartered bank or trust company or loan company authorized by law to receive money on deposit or a Province of Ontario Savings Office until,

(a) its disposition to the person entitled thereto; or
 (b) delivery of prescribed security to the purchaser for repayment.

Interest

(2) Where an agreement of purchase and sale referred to in subsection 1 is terminated and the purchaser is entitled to the return of any money paid under the agreement, the proposed declarant shall pay to the purchaser interest on such money at the prescribed rate.

SECTION 15. The new section 24c provides that any money received by a condominium developer on the sale of a unit is trust money and is to be held in approved banking depositories until completion of registration of the condominium corporation and provides for the payment of interest thereon.

SECTION 16. The new section 24d limits the developers right to lease a unit both before and after the registration of the declaration and description.

The new section 24e provides for penalties.

(3) Subject to subsection 2, where a purchaser of a^{Idem} proposed unit under an agreement of purchase and sale referred to in subsection 1 enters into possession or occupation of the unit before a deed or transfer of the unit acceptable for registration is delivered to him, the proposed declarant shall pay interest at the prescribed rate on all money received by him on account of the purchase price from the day the purchaser enters into possession or occupation until the day a deed or transfer acceptable for registration is delivered to him.

(4) Subject to subsections 2 and 3, the proposed declarant^{Idem} is entitled to any interest earned on the money required to be held in trust under subsection 1.

(5) This section does not apply in respect of money ^{Application of section} received before the day on which section 15 of *The Condominium Amendment Act, 1974* comes into force.

16. The said Act is further amended by adding thereto the following sections:

24d.—(1) A declarant or proposed declarant shall not grant ^{Leases of units} a lease of a unit or proposed unit for residential purposes unless,

- (a) the lessee has entered into a *bona fide* agreement to purchase the unit;
- (b) the lease grants to the lessee a *bona fide* option to purchase the unit;
- (c) every agreement of purchase and sale of a unit included in the property includes a statement that the unit to be included in the lease is or will be leased and specifies the uses that are or will be permitted by the lease; or
- (d) written notice of the lessor's intention to lease the unit has been given to every purchaser under an agreement of purchase and sale, registered owner and mortgagee and chargee entitled to vote, and the period referred to in subsection 2 has expired or, where an application is made under subsection 2, it is finally disposed of.

(2) Any person notified under clause d of subsection 1 ^{Application to court} may, within twenty-one days after receiving the notice, and on written notice to the declarant, apply to a judge

of a county or district court, and the judge, if he is of the opinion that the declarant has not taken all reasonable steps to sell the unit, may by order prohibit the declarant from leasing the unit or grant such other relief as he considers proper.

Contents
of notice

(3) The notice mentioned in clause *d* of subsection 1 shall specify the unit or units intended to be leased and the uses that will be permitted by the lease but need not set out any other terms or identify any proposed lessee.

Terms of
leases



(4) A declarant or proposed declarant may grant leases of a unit or proposed unit for residential purposes for a period in each case not exceeding two years, including renewals, provided that subsection 1 is complied with in respect of each lease.



Exemption

(5) This section does not apply to the renewal of a lease of a unit or proposed unit entered into before any agreement of purchase and sale of any unit or proposed unit included in the property is entered into.

Lease,
defined

(6) In this section, "lease" includes a license to use or occupy and any agreement in the nature of a lease.

Offences

24e. Every person who knowingly contravenes section 11a, subsection 1 or 4 of section 15b, or subsection 1 of section 24c, or knowingly purports to enter into a lease in contravention of subsection 1 or 4 of section 24d, is guilty of an offence and on summary conviction is liable to a fine of,

- (a) not more than \$25,000, where the person is a corporation; or
- (b) not more than \$2,000, where the person is other than a corporation.

s. 25 (1) (*k*),
re-enacted

17. Clause *k* of subsection 1 of section 25 of the said Act is repealed and the following substituted therefor:

- (k) governing funds intended for the payment of common expenses;
- (l) requiring and governing the books, accounts and records that shall be kept by condominium corporations and requiring and governing the accounting to members of condominium corporations in such manner and at such times as are prescribed;
- (m) exempting any class of person from this Act or the regulations or any provision thereof;

SECTION 17. The amendment authorizes regulations in respect of the matters contained in the clauses.

SECTION 18. The new provision enables condominiums to be created on land under long-term lease from the Crown.

- (n) prescribing security for the purposes of clause *c* of subsection 1 of section 24a;
 - (o) prescribing rates of interest that shall be paid on moneys required to be held in trust under this Act.
- 18.** The said Act is further amended by adding thereto the following section:

LEASEHOLD CONDOMINIUMS

26.—(1) A person who is the lessee of land owned by and leased from the Crown or any agency of the Crown designated in the regulations for a term of not less than ninety-nine years may, with the consent of the Crown or the agency, register a declaration and description.

(2) The Crown or agency may enter into a lease of land with itself for the purposes of this section, in which case the lease shall not merge in the fee by operation of law.

(3) Upon the registration of a declaration and description under this section, the land and the interests appurtenant to the land described in the description are governed by this Act which, subject to subsection 6, applies *mutatis mutandis* thereto.

(4) The lessee from the Crown or agency who registers a declaration and description under this section may assign or transfer the leasehold estate in respect of each unit designated in the description and for the purposes of this Act he shall be deemed to be the declarant and the assignee shall be deemed to be the owner of the unit.

(5) Part IV of *The Landlord and Tenant Act* does not apply in respect of leases or assignments or transfers thereof that are subject to this section.

(6) The Lieutenant Governor in Council may make regulations,

- (a) designating provisions of this Act that do not apply to properties in respect of which this section applies;
- (b) making such modifications to the application of the provisions of this Act, other than this section, that apply to properties under this section as are considered necessary to adapt their application *mutatis mutandis* to leasehold condominium projects;

(c) providing for such matters as are considered necessary for the purpose of effecting condominium projects in respect of leasehold land that are equivalent to those provided for by this Act in respect of freehold land;

 (d) designating agencies of the Crown for the purpose of subsection 1. 

Commencement **19.**—(1) This Act, except sections 10, 15 and 18, comes into force on the 1st day of April, 1975.

Idem (2) Sections 10, 15 and 18 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **20.** This Act may be cited as *The Condominium Amendment Act, 1974*.

An Act to amend
The Condominium Act

1st Reading

June 25th, 1974

2nd Reading

December 5th, 1974

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial
Relations

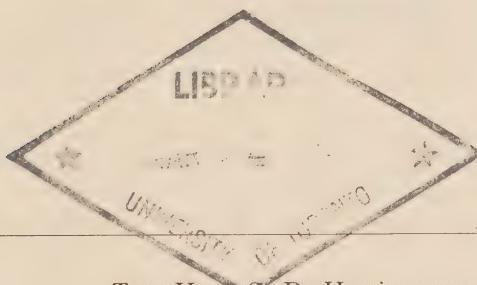
(Reprinted as amended by the
Administration of Justice Committee)

BILL 118

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

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An Act to amend The Condominium Act



THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)

TORONTO

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EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2.—Subsection 1. The amendment amends the consents required to the registration of a declaration.

BILL 118

1974

An Act to amend The Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 1 of *The Condominium Act*, being chapter 77 of the Revised Statutes of Ontario, 1970, is amended ^{s.1(1),} ^{amended} by adding thereto the following clauses:

(ha) "declarant" means the owner or owners in fee simple of the land described in the description at the time of the registration of a declaration and description of the land, and includes any successor or assignee of such owner or owners but does not include a *bona fide* purchaser of a unit who actually pays fair market value or any successor or assignee of such purchaser;

(na) "proposed unit" means land described in an agreement of purchase and sale that provides for delivery to the purchaser of a deed or transfer capable of registration after a declaration and description have been registered in respect of the land.

- 2.—(1) Clause b of subsection 1 of section 3 of the said Act ^{s.3(1)(b),} ^{re-enacted} is repealed and the following substituted therefor:

(b) the consent, in the prescribed form, of every person having a registered charge, mortgage, lien, or other claim securing the payment of money against the land or interests appurtenant to the land described in the description, other than a municipality having a registered agreement with the owner of the land described in the description or with any predecessor in title of the owner.

s. 3, amended	(2) The said section 3 is amended by adding thereto the following subsections:
Change of address for service	(5) Notwithstanding subsections 3 and 4, the corporation may by resolution of the board change its address for service and the change does not take effect until a notice thereof in the prescribed form is registered.
Amendment by judge	(6) The corporation on at least seven days notice to every owner, or an owner on at least seven days notice to the corporation and every other owner, may apply to a judge of the county or district court for an order amending the declaration or description and the judge, if he is satisfied that an amendment is necessary or desirable to correct a manifest error or inconsistency in the declaration or description or arising out of the carrying out of the intent and purpose of the declaration or description, may make the order.
Registration	(7) An amendment to a declaration or description made by an order under subsection 6 is ineffective until a certified copy of the order is registered.
s. 5 (1), amended	3.—(1) Subsection 1 of section 5 of the said Act is amended by striking out "master of titles and every registrar of deeds" in the first line and inserting in lieu thereof "land registrar".
s. 5 (3), amended	(2) Subsection 3 of the said section 5 is amended by striking out "master of titles and every registrar of deeds" in the first line and inserting in lieu thereof "land registrar".
s. 8a, enacted	4. The said Act is amended by adding thereto the following section:
Easements and leases of common elements	<p>8a.—(1) The corporation may, by by-law,</p> <p>(a) lease any part of the common elements, except any part that the declaration specifies are to be used by the owners of one or more designated units and not by all the owners; and</p> <p>(b) grant or transfer an easement or licence through the common elements.</p>
Binding on all owners	(2) A lease or a grant or transfer of an easement or licence mentioned in subsection 1, signed by the authorized officers of the corporation under its seal, affects the interest of every owner in the common elements as if the lease, grant or transfer had been executed by him, and shall have attached thereto an affidavit of one of the officers stating that the lease, grant or transfer was authorized by a by-law of the corporation.

Subsection 2. The new subsection 5 would allow the corporation to change its address for service by registering a notice in the prescribed form. At present the corporation can only change its address for service by amending the declaration, thus requiring the consent of all owners and all persons having registered encumbrances against the units and common elements.

The amendment also enables a declaration or description to be amended by a judge to correct a manifest error or inconsistency.

SECTION 3. The titles of land registrars are made to accord with 1972 amendments to *The Land Titles Act* and *The Registry Act*.

SECTION 4. The new section allows the corporation, on behalf of every owner, to grant easements or licences for the provision of services through the common elements and to lease any part of the common elements other than those parts designated as limited common elements.

SECTION 5.—Subsection 1. The new subsection 2 provides authority for the land registrar to assign a name to a corporation in accordance with the regulations.

Subsection 2. The new provisions provide for the filling of vacancies in the board of directors by appointment and the removal of directors.

SECTION 6. The new sections 9a and 9b provide for compulsory annual meetings, the giving of notice of such meetings and a record date for the giving of such notice. They also provide for the termination of the board of directors who are elected at a time when the developer is the owner of a majority of the units, and the election of a new board. They additionally deal with other meetings and allow for a stipulated percentage of the members of the corporation to compel the board to call a meeting.

5.—(1) Subsection 2 of section 9 of the said Act is repealed <sup>s. 9 (2),
re-enacted</sup> and the following substituted therefor:

(2) The land registrar shall assign a name to each <sup>Name of
corporation</sup> corporation or proposed corporation in accordance with the regulations.

(2) Subsection 7 of the said section 9 is repealed and the <sup>s. 9 (7),
re-enacted</sup> following substituted therefor:

(7) If a vacancy in the membership of the board occurs, ^{Vacancy} the majority of the remaining members of the board may appoint any person qualified to be a member of the board under the declaration or by-laws to fill the vacancy for the remainder of the term.

(7a) Any director may be removed before the expiration ^{Removal} of his term by a vote of members who together own a majority of the units and the members may elect any person qualified to be a member of the board under the declaration or by-laws for the remainder of the term of the director removed.

6. The said Act is further amended by adding thereto the <sup>ss. 9a, 9b,
enacted</sup> following sections:

9a.—(1) A corporation shall hold an annual meeting of <sup>Annual
meetings</sup> the members not more than three months after the registration of the declaration and description, and subsequently not more than fifteen months after the holding of the last preceding annual meeting, and at such meeting any member of the corporation or any mortgagee or chargee entitled to vote shall have an opportunity to raise any matter relevant to the affairs and business of the corporation.

(2) The board may at any time call a meeting of the <sup>Other
meetings</sup> members of the corporation for the transaction of any business, the nature of which shall be specified in the notice calling the meeting.

(3) The board shall, upon receipt of a requisition in <sup>Requisition
for members'
meeting</sup> writing made by members of the corporation who together own at least 25 per cent of the common elements, call and hold a meeting of the members of the corporation and if the meeting is not called and held within thirty days of receipt of the requisition, any of the requisitionists may call the meeting, and in such case, the meeting shall be held within sixty days of receipt of the requisition.

Requisition

(4) The requisition shall state the nature of the business to be presented at the meeting, and shall be signed by the requisitionists and deposited at the address for service of the corporation.

Notice

(5) At least ten days written notice of every meeting of the members of the corporation specifying the place, the date and the hour thereof and the nature of the business to be presented shall be given to each member and to each mortgagee or chargee entitled to vote, personally or by prepaid mail addressed to him at the address provided under subsection 6.

Record
for notice

(6) The corporation shall maintain a record upon which shall be entered each owner or mortgagee or chargee who notifies the corporation of his entitlement to vote and of his address for service and the notice of a meeting required by subsection 5 shall be deemed to be sufficiently given if given in accordance with subsection 5 to those persons entered on the record twelve days before the date of the meeting.

Right to
vote

(7) A mortgagee or chargee who receives a notice shall, in order to be entitled to exercise the right of the owner to vote or to consent, notify the corporation and the owner of his intention to exercise such right at least two days before the date specified in the notice for the meeting.

Election of
new board

9b.—(1) The board elected at a time when the declarant owns a majority of the units shall, not more than twenty-one days after the declarant ceases to be the registered owner of a majority of the units, call a meeting of the members of the corporation to elect a new board of directors, and such meeting shall be held within twenty-one days after the calling of the meeting.

Member, etc.,
may call
meeting

(2) If the meeting referred to in subsection 1 is not called within the time provided for by that subsection, any member of the corporation, or any mortgagee or chargee entitled to vote may call the meeting.

s. 10 (1),
amended

7. Subsection 1 of section 10 of the said Act is amended by adding thereto the following clause:

(ha) authorizing the borrowing of money to carry out the objects and duties of the corporation.

s. 11 (1),
amended

8. Subsection 1 of section 11 of the said Act is amended by striking out "owners" in the second line, and inserting in lieu

SECTION 7. The amendment permits by-laws for borrowing purposes.

SECTION 8. The amendment ensures that the making of rules respecting the use of common elements requires a majority of owners.

SECTION 9. The amendment ensures that political canvassers will not be denied entrance to condominium buildings.

SECTION 10. Provision is made to secure arrears of payments respecting common expenses by a lien against the unit.

SECTION 11. The amendment removes doubt as to whether a corporation has a dominant tenancy capable of supporting its rights as the grantor of an easement.

SECTION 12. The new section 15a provides for the termination of management agreements entered into before the owners outvote the declarant.

The new section 15b allows the corporation, or any unit owner, mortgagee or chargee to examine the records of every person in receipt of money for the payment of common expenses with respect to the disposition of such money. The section additionally allows the corporation or any unit owner or mortgagee or chargee to apply to the court for an investigation or audit of that person and requires that all such money be held as trust money in an approved banking depository.

thereof "members of the corporation who together own a majority of the units".

- 9.** The said Act is further amended by adding thereto the following section:

11a. No corporation or servant or agent of a corporation shall restrict reasonable access to the property by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly, any office in a municipal government or school board for the purpose of canvassing or distributing election material.

- 10.** Subsection 4 of section 13 of the said Act is repealed and the following substituted therefor:

(4) Where an owner defaults in his obligation to contribute to the corporation towards the common expenses in the proportion allocated to his unit, the corporation has a lien for the unpaid amount against that unit and its appurtenant common interest.

(4a) The lien mentioned in subsection 4 expires three months after the default that gave rise to the lien first occurred unless the corporation within that time registers a notice of lien in the prescribed form.

(4b) Any person acquiring an interest in a unit from an owner may, with the consent of the owner, request the corporation to give a certificate in the prescribed form in respect of the common expenses of the owner and of default in payment thereof, if any, by the owner, and the certificate binds the corporation as against the person requesting the certificate in respect of any default or otherwise shown in the certificate, as of the day it is given.

(4c) The corporation shall give the certificate requested under subsection 4b within seven days after its receipt of the request therefor and where the corporation fails to give the certificate within the time prescribed, the corporation shall be deemed, as against the person requesting the certificate, to have given a certificate stating no default.

- 11.** Section 14 of the said Act is amended by adding thereto the following subsection:

(1a) A grant or transfer of an easement to the corporation is as effective as if the corporation owns land capable of being benefited by the easement.

- 12.** The said Act is further amended by adding thereto the following sections:

MANAGEMENT AGREEMENT

Management
agreement

15a. The corporation may, by a vote of members who own 66-2/3 per cent of the common elements, terminate, on giving sixty days notice in writing, any agreement between the corporation and any person for the management of the property entered into at a time when the majority of the members of the board of directors were elected when the declarant was the registered owner of a majority of the units.

Examination
of records

15b.—(1) Every person in receipt of money paid by or on behalf of an owner for the payment of common expenses shall, upon reasonable notice and during normal business hours, make available for examination by the corporation or any owner, mortgagee or chargee, all records relating to the disposition of such money.

Application
to court

(2) Upon application to a judge of a county or district court by the corporation or any owner, mortgagee or chargee, the judge, if satisfied that the application is made in good faith and that it is *prima facie* in the best interests of the applicant to do so, may make an order, upon such terms as to the costs of the investigation or audit or otherwise as he considers proper, appointing an inspector to make such investigation of the affairs of any person in receipt of money mentioned in subsection 1 and to make such audit of the accounts and records of such person as the judge considers necessary.

Powers of
inspector
1971, c. 49

(3) An inspector appointed under subsection 2 has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation or audit as if it were an inquiry under that Act.

Trust
money

(4) All money received for the payment of common expenses relating to a property after the 1st day of April, 1975 shall be held by the person in receipt thereof in trust for the performance of the duties and obligations in respect of which the money is paid, and he shall pay such money into a separate account at a chartered bank or trust company or a loan company authorized by law to receive money on deposit or a Province of Ontario Savings Office and shall designate the account as a trust account.

s. 23 (1),
amended

13.—(1) Subsection 1 of section 23 of the said Act is amended by striking out "Supreme Court" in the fourth line and inserting in lieu thereof "county or district court".

SECTION 13.—Subsection 1. The amendment provides for applications to compel owners to comply with the Act, declaration and by-laws to be made to the county court instead of the Supreme Court.

Subsection 2. The new provision makes lessees subject to the duties of owners and breach of an order of the court for compliance may result in termination of the lease.

SECTION 14. The new section 24a implies certain covenants in agreements of purchase and sale of proposed units. It also protects purchasers of units where the declaration and description are not registered within a period of time specified in the agreement of purchase and sale and where the purchaser is required or permitted to occupy the unit before the declaration and description are registered.

The new section 24b requires the declarant to disclose certain intentions to a proposed purchaser and to show any changes therein at the time the declaration and description is registered so the purchaser can assess his right to terminate because of material change. When the declarant understates the amount of common expenses he is required to pay the excess.

(2) Section 23 of the said Act is amended by adding thereto <sup>s. 23,
amended</sup> the following subsection:

(2a) The lessee of a unit is subject to the duties imposed <sup>Application
to lessees</sup> by this Act, the declaration and the by-laws, on an owner, except those duties respecting common expenses, and this section applies in the same manner as to an owner and where the lessee is in contravention of an order under this section, the court may terminate the lease.

14. The said Act is further amended by adding thereto the following sections: <sup>ss. 24a, 24b,
enacted</sup>

SALE AND LEASE OF UNITS

24a.—(1) Every agreement of purchase and sale entered into by a proposed declarant for a proposed unit for residential purposes shall be deemed to contain, <sup>Implied
covenants in
agreements
of purchase
and sale</sup>

(a) a covenant by the vendor to take all reasonable steps to register a declaration and description in respect of the property in which the unit is included without delay;

(b) a covenant by the vendor to take all reasonable steps to sell the other residential units included in the property without delay other than any units mentioned in a statement under clause *c* of subsection 1 of section 24d; and

(c) a covenant by the vendor to take all reasonable steps to deliver to the purchaser a registrable deed or transfer of the unit without delay.

(2) Notwithstanding any provision to the contrary contained therein, an agreement of purchase and sale of a proposed unit for residential purposes shall not be terminated by the proposed declarant only by reason of the failure to register the declaration and description within a period of time specified in the agreement, unless the purchaser consents to the termination in writing. <sup>Failure to
register
declaration
within a
specified
period</sup>

(3) Notwithstanding subsection 2, the proposed declarant <sup>Application
to court</sup> may apply to a judge of a county or district court and the judge may by order terminate the agreement if he is satisfied that,

(a) the proposed declarant has taken all reasonable steps to register a declaration and description;

(b) a declaration and description cannot be registered within a reasonable period of time; and

Subsequent registration under Act

- (c) the failure and inability to register a declaration and description is caused by circumstances beyond the control of the proposed declarant.

Registration of order

- (4) The judge may, in an order under subsection 3, provide that a declaration and description shall not be registered in respect of the property in which the proposed unit is included during such period as he specifies in the order.

Payments of purchase price

- (6) Where an agreement of purchase and sale entered into by a proposed declarant for a proposed unit for residential purposes permits or requires the purchaser to take possession of or occupy the unit before a deed or transfer of the unit acceptable for registration is delivered to him, the money paid in respect of such right or obligation to the proposed declarant shall be credited as payments of the purchase price unless the agreement states that the money or any part of it will not be so credited.

Disclosure before sale

- 24b.—(1) An agreement of purchase and sale entered into by a declarant of a unit for residential purposes is not binding on the purchaser unless the declarant has previously delivered to the purchaser a copy of,

(a) the declaration;

(b) those parts of the description showing,

(i) the perimeter of the horizontal surface of the land and the perimeter of the buildings,

(ii) the shape and dimensions of the unit, the boundaries of the unit by reference to the buildings and the approximate location of the unit in relation to the other units and the buildings, and

(iii) any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;

(c) a statement of the recreational or other amenities intended to be provided by the declarant for the enjoyment of the owners and of the conditions, if any, that apply to the provision of such amenities;

- (d) any by-laws or any rules governing the use of common elements;
- (e) any agreement for the management of the property or insurance trust agreement; and
- (f) where the agreement for purchase and sale is entered into within the year immediately following the registration of the declaration and description, a budget statement prepared by the declarant for the year immediately following the registration of the declaration and description setting out the common expenses, the proposed amount of each expense, particulars of the service to be provided and the amount to be contributed by the purchaser for the year.

(2) An agreement of purchase and sale entered into by a ^{Idem} proposed declarant for a proposed unit for residential purposes shall not be binding on the purchaser unless the proposed declarant has previously delivered to the purchaser a copy of,

- (a) the proposed declaration;
- (b) those parts of the proposed description showing,
 - (i) the perimeter of the horizontal surface of the land and perimeter of the buildings,
 - (ii) the shape and dimensions of the unit, the boundaries of the unit by reference to the buildings and the approximate location of the units in relation to the other units and the buildings, and
 - (iii) any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;
- (c) a statement of the recreational or other amenities intended to be provided by the declarant for the enjoyment of the owners and of the conditions, if any, that apply to the provision of such amenities;
- (d) any proposed by-laws or any proposed rules governing the use of common elements;
- (e) any agreement or proposed agreement for the management of the property or insurance trust agreement; and
- (f) a budget statement prepared by the proposed declarant for the year immediately following the registration of the declaration and description setting

out the common expenses, the proposed amount of each expense, particulars of the service to be provided and the amount to be contributed by the purchaser for the year.

Further disclosure before transfer of title

(3) Where an agreement of purchase and sale to which subsection 2 applies has been entered into, the proposed declarant shall, at least ten days before delivering a deed or transfer for the unit to the purchaser, deliver to the purchaser a further copy of each document or instrument mentioned in subsection 1 or confirmation that the document or instrument is identical in all substantial or material respects to a corresponding document or instrument previously delivered to him under subsection 2.

Inaccurate statement of common expenses

(4) Where the total amount incurred for the common expenses provided for in the statement mentioned in clause f of subsection 1 or clause f of subsection 2 exceeds the total of the proposed amounts set out in the statement, the declarant shall forthwith pay to the corporation the amount of the excess except in respect of increased expenses attributable to the termination of an agreement under section 15a.

Application of section

(5) This section does not apply to agreements of purchase and sale entered into before the 1st day of April, 1975.

s. 24c,
enacted

15. The said Act is further amended by adding thereto the following section:

Trust money

24c.—(1) All money received by or on behalf of a proposed declarant from a purchaser on account of a sale or an agreement for the purchase and sale of a proposed unit for residential purposes before the registration of the declaration and description, other than money paid as rent or as an occupancy charge, shall be held in trust by the person receiving such money for the person entitled thereto in respect of the agreement and such money shall be held in a separate account designated as a trust account at a chartered bank or trust company or loan company authorized by law to receive money on deposit or a Province of Ontario Savings Office until,

- (a) its disposition to the person entitled thereto; or
- (b) delivery of prescribed security to the purchaser for repayment.

Interest

(2) Where an agreement of purchase and sale referred to in subsection 1 is terminated and the purchaser is entitled to the return of any money paid under the agreement, the proposed declarant shall pay to the purchaser interest on such money at the prescribed rate.

SECTION 15. The new section 24c provides that any money received by a condominium developer on the sale of a unit is trust money and is to be held in approved banking depositories until completion of registration of the condominium corporation and provides for the payment of interest thereon.

SECTION 16. The new section 24d limits the developers right to lease a unit both before and after the registration of the declaration and description.

The new section 24e provides for penalties.

(3) Subject to subsection 2, where a purchaser of a^{Idem} proposed unit under an agreement of purchase and sale referred to in subsection 1 enters into possession or occupation of the unit before a deed or transfer of the unit acceptable for registration is delivered to him, the proposed declarant shall pay interest at the prescribed rate on all money received by him on account of the purchase price from the day the purchaser enters into possession or occupation until the day a deed or transfer acceptable for registration is delivered to him.

(4) Subject to subsections 2 and 3, the proposed declarant^{Idem} is entitled to any interest earned on the money required to be held in trust under subsection 1.

(5) This section does not apply in respect of money^{Application of section} received before the day on which section 15 of *The Condominium Amendment Act, 1974* comes into force.

16. The said Act is further amended by adding thereto the following sections:

24d.—(1) A declarant or proposed declarant shall not grant^{Leases of units} a lease of a unit or proposed unit for residential purposes unless,

- (a) the lessee has entered into a *bona fide* agreement to purchase the unit;
- (b) the lease grants to the lessee a *bona fide* option to purchase the unit;
- (c) every agreement of purchase and sale of a unit included in the property includes a statement that the unit to be included in the lease is or will be leased and specifies the uses that are or will be permitted by the lease; or
- (d) written notice of the lessor's intention to lease the unit has been given to every purchaser under an agreement of purchase and sale, registered owner and mortgagee and chargee entitled to vote, and the period referred to in subsection 2 has expired or, where an application is made under subsection 2, it is finally disposed of.

(2) Any person notified under clause d of subsection 1^{Application to court} may, within twenty-one days after receiving the notice, and on written notice to the declarant, apply to a judge

of a county or district court, and the judge, if he is of the opinion that the declarant has not taken all reasonable steps to sell the unit, may by order prohibit the declarant from leasing the unit or grant such other relief as he considers proper.

**Contents
of notice**

(3) The notice mentioned in clause *d* of subsection 1 shall specify the unit or units intended to be leased and the uses that will be permitted by the lease but need not set out any other terms or identify any proposed lessee.

**Terms of
leases**

(4) A declarant or proposed declarant may grant leases of a unit or proposed unit for residential purposes for a period in each case not exceeding two years, including renewals, provided that subsection 1 is complied with in respect of each lease.

Exemption

(5) This section does not apply to the renewal of a lease of a unit or proposed unit entered into before any agreement of purchase and sale of any unit or proposed unit included in the property is entered into.

**Lease,
defined**

(6) In this section, "lease" includes a license to use or occupy and any agreement in the nature of a lease.

Offences

24e. Every person who knowingly contravenes section 11*a*, subsection 1 or 4 of section 15*b*, or subsection 1 of section 24*c*, or knowingly purports to enter into a lease in contravention of subsection 1 or 4 of section 24*d*, is guilty of an offence and on summary conviction is liable to a fine of,

(a) not more than \$25,000, where the person is a corporation; or

(b) not more than \$2,000, where the person is other than a corporation.

**s. 25 (1) (*k*),
re-enacted**

17. Clause *k* of subsection 1 of section 25 of the said Act is repealed and the following substituted therefor:

(*k*) governing funds intended for the payment of common expenses;

(*l*) requiring and governing the books, accounts and records that shall be kept by condominium corporations and requiring and governing the accounting to members of condominium corporations in such manner and at such times as are prescribed;

(*m*) exempting any class of person from this Act or the regulations or any provision thereof;

SECTION 17. The amendment authorizes regulations in respect of the matters contained in the clauses.

SECTION 18. The new provision enables condominiums to be created on land under long-term lease from the Crown.

(n) prescribing security for the purposes of clause *b* of subsection 1 of section 24c;

(o) prescribing rates of interest that shall be paid on moneys required to be held in trust under this Act.

18. The said Act is further amended by adding thereto the following section: ^{s. 26, enacted}

LEASEHOLD CONDOMINIUMS

26.—(1) A person who is the lessee of land owned by ^{Registration of leasehold condominium} and leased from the Crown or any agency of the Crown designated in the regulations for a term of not less than ninety-nine years may, with the consent of the Crown or the agency, register a declaration and description.

(2) The Crown or agency may enter into a lease of land ^{Registration by Crown} with itself for the purposes of this section, in which case the lease shall not merge in the fee by operation of law.

(3) Upon the registration of a declaration and description ^{Application of Act} under this section, the land and the interests appurtenant to the land described in the description are governed by this Act which, subject to subsection 6, applies *mutatis mutandis* thereto.

(4) The lessee from the Crown or agency who registers ^{Assignments of units} a declaration and description under this section may assign or transfer the leasehold estate in respect of each unit designated in the description and for the purposes of this Act he shall be deemed to be the declarant and the assignee shall be deemed to be the owner of the unit.

(5) Part IV of *The Landlord and Tenant Act* does not apply in respect of leases or assignments or transfers thereof ^{of R.S.O. 1970, c. 236} that are subject to this section.

(6) The Lieutenant Governor in Council may make regulations,

(a) designating provisions of this Act that do not apply to properties in respect of which this section applies;

(b) making such modifications to the application of the provisions of this Act, other than this section, that apply to properties under this section as are considered necessary to adapt their application *mutatis mutandis* to leasehold condominium projects;

- (c) providing for such matters as are considered necessary for the purpose of effecting condominium projects in respect of leasehold land that are equivalent to those provided for by this Act in respect of freehold land;
- (d) designating agencies of the Crown for the purpose of subsection 1.

Commencement **19.**—(1) This Act, except sections 10, 15 and 18, comes into force on the 1st day of April, 1975.

Idem (2) Sections 10, 15 and 18 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **20.** This Act may be cited as *The Condominium Amendment Act, 1974.*

BILL 118

An Act to amend The Condominium Act

1st Reading

June 25th, 1974

2nd Reading

December 5th, 1974

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial
Relations

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 118

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

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An Act to amend The Condominium Act

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations



TORONTO

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BILL 118

1974

An Act to amend The Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 1 of *The Condominium Act*, being chapter 77 of the Revised Statutes of Ontario, 1970, is amended ^{s. 1(1), amended} by adding thereto the following clauses:

(ha) “declarant” means the owner or owners in fee simple of the land described in the description at the time of the registration of a declaration and description of the land, and includes any successor or assignee of such owner or owners but does not include a *bona fide* purchaser of a unit who actually pays fair market value or any successor or assignee of such purchaser;

(na) “proposed unit” means land described in an agreement of purchase and sale that provides for delivery to the purchaser of a deed or transfer capable of registration after a declaration and description have been registered in respect of the land.

- 2.—(1) Clause b of subsection 1 of section 3 of the said Act ^{s. 3(1)(b), re-enacted} is repealed and the following substituted therefor:

(b) the consent, in the prescribed form, of every person having a registered charge, mortgage, lien, or other claim securing the payment of money against the land or interests appurtenant to the land described in the description, other than a municipality having a registered agreement with the owner of the land described in the description or with any predecessor in title of the owner.

s. 3, amended	(2) The said section 3 is amended by adding thereto the following subsections:
Change of address for service	(5) Notwithstanding subsections 3 and 4, the corporation may by resolution of the board change its address for service and the change does not take effect until a notice thereof in the prescribed form is registered.
Amendment by judge	(6) The corporation on at least seven days notice to every owner, or an owner on at least seven days notice to the corporation and every other owner, may apply to a judge of the county or district court for an order amending the declaration or description and the judge, if he is satisfied that an amendment is necessary or desirable to correct a manifest error or inconsistency in the declaration or description or arising out of the carrying out of the intent and purpose of the declaration or description, may make the order.
Registration	(7) An amendment to a declaration or description made by an order under subsection 6 is ineffective until a certified copy of the order is registered.
s. 5 (1), amended	3.—(1) Subsection 1 of section 5 of the said Act is amended by striking out “master of titles and every registrar of deeds” in the first line and inserting in lieu thereof “land registrar”.
s. 5 (3), amended	(2) Subsection 3 of the said section 5 is amended by striking out “master of titles and every registrar of deeds” in the first line and inserting in lieu thereof “land registrar”.
s. 8a, enacted	4. The said Act is amended by adding thereto the following section:
Easements and leases of common elements	<p>8a.—(1) The corporation may, by by-law,</p> <p>(a) lease any part of the common elements, except any part that the declaration specifies are to be used by the owners of one or more designated units and not by all the owners; and</p> <p>(b) grant or transfer an easement or licence through the common elements.</p>
Binding on all owners	(2) A lease or a grant or transfer of an easement or licence mentioned in subsection 1, signed by the authorized officers of the corporation under its seal, affects the interest of every owner in the common elements as if the lease, grant or transfer had been executed by him, and shall have attached thereto an affidavit of one of the officers stating that the lease, grant or transfer was authorized by a by-law of the corporation.

5.—(1) Subsection 2 of section 9 of the said Act is repealed ^{s. 9 (2),} re-enacted and the following substituted therefor:

(2) The land registrar shall assign a name to each corporation or proposed corporation in accordance with the regulations. ^{Name of corporation}

(2) Subsection 7 of the said section 9 is repealed and the following substituted therefor: <sup>s. 9 (7),
re-enacted</sup>

(7) If a vacancy in the membership of the board occurs, Vacancy the majority of the remaining members of the board may appoint any person qualified to be a member of the board under the declaration or by-laws to fill the vacancy for the remainder of the term.

(7a) Any director may be removed before the expiration Removal of his term by a vote of members who together own a majority of the units and the members may elect any person qualified to be a member of the board under the declaration or by-laws for the remainder of the term of the director removed.

6. The said Act is further amended by adding thereto the <sup>ss. 9a, 9b,
enacted</sup> following sections:

9a.—(1) A corporation shall hold an annual meeting of Annual meetings the members not more than three months after the registration of the declaration and description, and subsequently not more than fifteen months after the holding of the last preceding annual meeting, and at such meeting any member of the corporation or any mortgagee or chargee entitled to vote shall have an opportunity to raise any matter relevant to the affairs and business of the corporation.

(2) The board may at any time call a meeting of the Other meetings members of the corporation for the transaction of any business, the nature of which shall be specified in the notice calling the meeting.

(3) The board shall, upon receipt of a requisition in Requisition for members' writing made by members of the corporation who together own at least 25 per cent of the common elements, call and hold a meeting of the members of the corporation and if the meeting is not called and held within thirty days of receipt of the requisition, any of the requisitionists may call the meeting, and in such case, the meeting shall be held within sixty days of receipt of the requisition.

Requisition	(4) The requisition shall state the nature of the business to be presented at the meeting, and shall be signed by the requisitionists and deposited at the address for service of the corporation.
Notice	(5) At least ten days written notice of every meeting of the members of the corporation specifying the place, the date and the hour thereof and the nature of the business to be presented shall be given to each member and to each mortgagee or chargee entitled to vote, personally or by prepaid mail addressed to him at the address provided under subsection 6.
Record for notice	(6) The corporation shall maintain a record upon which shall be entered each owner or mortgagee or chargee who notifies the corporation of his entitlement to vote and of his address for service and the notice of a meeting required by subsection 5 shall be deemed to be sufficiently given if given in accordance with subsection 5 to those persons entered on the record twelve days before the date of the meeting.
Right to vote	(7) A mortgagee or chargee who receives a notice shall, in order to be entitled to exercise the right of the owner to vote or to consent, notify the corporation and the owner of his intention to exercise such right at least two days before the date specified in the notice for the meeting.
Election of new board	9b.—(1) The board elected at a time when the declarant owns a majority of the units shall, not more than twenty-one days after the declarant ceases to be the registered owner of a majority of the units, call a meeting of the members of the corporation to elect a new board of directors, and such meeting shall be held within twenty-one days after the calling of the meeting.
Member, etc., may call meeting	(2) If the meeting referred to in subsection 1 is not called within the time provided for by that subsection, any member of the corporation, or any mortgagee or chargee entitled to vote may call the meeting.
s. 10 (1), amended	7. Subsection 1 of section 10 of the said Act is amended by adding thereto the following clause:
	(ha) authorizing the borrowing of money to carry out the objects and duties of the corporation.
s. 11 (1), amended	8. Subsection 1 of section 11 of the said Act is amended by striking out “owners” in the second line and inserting in lieu

thereof "members of the corporation who together own a majority of the units".

- 9.** The said Act is further amended by adding thereto the following section:^{s. 11a enacted}

11a. No corporation or servant or agent of a corporation shall restrict reasonable access to the property by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly, any office in a municipal government or school board for the purpose of canvassing or distributing election material.^{Entry by canvassers}

- 10.** Subsection 4 of section 13 of the said Act is repealed and the following substituted therefor:^{s. 13 (4), re-enacted}

(4) Where an owner defaults in his obligation to contribute to the corporation towards the common expenses in the proportion allocated to his unit, the corporation has a lien for the unpaid amount against that unit and its appurtenant common interest.^{Lien}

(4a) The lien mentioned in subsection 4 expires three months after the default that gave rise to the lien first occurred unless the corporation within that time registers a notice of lien in the prescribed form.^{Expiration of lien}

(4b) Any person acquiring an interest in a unit from an owner may, with the consent of the owner, request the corporation to give a certificate in the prescribed form in respect of the common expenses of the owner and of default in payment thereof, if any, by the owner, and the certificate binds the corporation as against the person requesting the certificate in respect of any default or otherwise shown in the certificate, as of the day it is given.^{Certificate of lien}

(4c) The corporation shall give the certificate requested under subsection 4b within seven days after its receipt of the request therefor and where the corporation fails to give the certificate within the time prescribed, the corporation shall be deemed, as against the person requesting the certificate, to have given a certificate stating no default.^{Idem}

- 11.** Section 14 of the said Act is amended by adding thereto the following subsection:^{s. 14, amended}

(1a) A grant or transfer of an easement to the corporation is as effective as if the corporation owns land capable of being benefited by the easement.^{Easement}

- 12.** The said Act is further amended by adding thereto the following sections:^{ss. 15a, 15b, enacted}

MANAGEMENT AGREEMENT

Management
agreement

15a. The corporation may, by a vote of members who own 66-2/3 per cent of the common elements, terminate, on giving sixty days notice in writing, any agreement between the corporation and any person for the management of the property entered into at a time when the majority of the members of the board of directors were elected when the declarant was the registered owner of a majority of the units.

Examination
of records

15b.—(1) Every person in receipt of money paid by or on behalf of an owner for the payment of common expenses shall, upon reasonable notice and during normal business hours, make available for examination by the corporation or any owner, mortgagee or chargee, all records relating to the disposition of such money.

Application
to court

(2) Upon application to a judge of a county or district court by the corporation or any owner, mortgagee or chargee, the judge, if satisfied that the application is made in good faith and that it is *prima facie* in the best interests of the applicant to do so, may make an order, upon such terms as to the costs of the investigation or audit or otherwise as he considers proper, appointing an inspector to make such investigation of the affairs of any person in receipt of money mentioned in subsection 1 and to make such audit of the accounts and records of such person as the judge considers necessary.

Powers of
inspector
1971, c. 49

(3) An inspector appointed under subsection 2 has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation or audit as if it were an inquiry under that Act.

Trust
money

(4) All money received for the payment of common expenses relating to a property after the 1st day of April, 1975 shall be held by the person in receipt thereof in trust for the performance of the duties and obligations in respect of which the money is paid, and he shall pay such money into a separate account at a chartered bank or trust company or a loan company authorized by law to receive money on deposit or a Province of Ontario Savings Office and shall designate the account as a trust account.

s. 23 (1),
amended

13.—(1) Subsection 1 of section 23 of the said Act is amended by striking out "Supreme Court" in the fourth line and inserting in lieu thereof "county or district court".

(2) Section 23 of the said Act is amended by adding thereto ^{s. 23.} ~~amended~~ the following subsection:

(2a) The lessee of a unit is subject to the duties imposed ^{Application to lessees} by this Act, the declaration and the by-laws, on an owner, except those duties respecting common expenses, and this section applies in the same manner as to an owner and where the lessee is in contravention of an order under this section, the court may terminate the lease.

14. The said Act is further amended by adding thereto the follow- ^{ss. 24a, 24b.} ~~enacted~~ ing sections:

SALE AND LEASE OF UNITS

24a.—(1) Every agreement of purchase and sale entered into by a proposed declarant for a proposed unit for residential purposes shall be deemed to contain, ^{Implied covenants in agreements of purchase and sale}

- (a) a covenant by the vendor to take all reasonable steps to register a declaration and description in respect of the property in which the unit is included without delay;
- (b) a covenant by the vendor to take all reasonable steps to sell the other residential units included in the property without delay other than any units mentioned in a statement under clause *c* of sub-section 1 of section 24d; and
- (c) a covenant by the vendor to take all reasonable steps to deliver to the purchaser a registrable deed or transfer of the unit without delay.

(2) Notwithstanding any provision to the contrary contained therein, an agreement of purchase and sale of a proposed unit for residential purposes shall not be terminated by the proposed declarant only by reason of the failure to register the declaration and description within a period of time specified in the agreement, unless the purchaser consents to the termination in writing. ^{Failure to register declaration within a specified period}

(3) Notwithstanding subsection 2, the proposed declarant ^{Application to court} may apply to a judge of a county or district court and the judge may by order terminate the agreement if he is satisfied that,

- (a) the proposed declarant has taken all reasonable steps to register a declaration and description;
- (b) a declaration and description cannot be registered within a reasonable period of time; and

(c) the failure and inability to register a declaration and description is caused by circumstances beyond the control of the proposed declarant.

Subsequent registration under Act

(4) The judge may, in an order under subsection 3, provide that a declaration and description shall not be registered in respect of the property in which the proposed unit is included during such period as he specifies in the order.

Registration of order

(5) An order under subsection 3 is ineffective until a certified copy thereof is registered.

Payments of purchase price

(6) Where an agreement of purchase and sale entered into by a proposed declarant for a proposed unit for residential purposes permits or requires the purchaser to take possession of or occupy the unit before a deed or transfer of the unit acceptable for registration is delivered to him, the money paid in respect of such right or obligation to the proposed declarant shall be credited as payments of the purchase price unless the agreement states that the money or any part of it will not be so credited.

Disclosure before sale

24b.—(1) An agreement of purchase and sale entered into by a declarant of a unit for residential purposes is not binding on the purchaser unless the declarant has previously delivered to the purchaser a copy of,

(a) the declaration;

(b) those parts of the description showing,

(i) the perimeter of the horizontal surface of the land and the perimeter of the buildings,

(ii) the shape and dimensions of the unit, the boundaries of the unit by reference to the buildings and the approximate location of the unit in relation to the other units and the buildings, and

(iii) any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;

(c) a statement of the recreational or other amenities intended to be provided by the declarant for the enjoyment of the owners and of the conditions, if any, that apply to the provision of such amenities;

- (d) any by-laws or any rules governing the use of common elements;
- (e) any agreement for the management of the property or insurance trust agreement; and
- (f) where the agreement for purchase and sale is entered into within the year immediately following the registration of the declaration and description, a budget statement prepared by the declarant for the year immediately following the registration of the declaration and description setting out the common expenses, the proposed amount of each expense, particulars of the service to be provided and the amount to be contributed by the purchaser for the year.

(2) An agreement of purchase and sale entered into by a ^{Idem} proposed declarant for a proposed unit for residential purposes shall not be binding on the purchaser unless the proposed declarant has previously delivered to the purchaser a copy of,

- (a) the proposed declaration;
- (b) those parts of the proposed description showing,
 - (i) the perimeter of the horizontal surface of the land and perimeter of the buildings,
 - (ii) the shape and dimensions of the unit, the boundaries of the unit by reference to the buildings and the approximate location of the units in relation to the other units and the buildings, and
 - (iii) any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;
- (c) a statement of the recreational or other amenities intended to be provided by the declarant for the enjoyment of the owners and of the conditions, if any, that apply to the provision of such amenities;
- (d) any proposed by-laws or any proposed rules governing the use of common elements;
- (e) any agreement or proposed agreement for the management of the property or insurance trust agreement; and
- (f) a budget statement prepared by the proposed declarant for the year immediately following the registration of the declaration and description setting

out the common expenses, the proposed amount of each expense, particulars of the service to be provided and the amount to be contributed by the purchaser for the year.

Further disclosure before transfer of title

(3) Where an agreement of purchase and sale to which subsection 2 applies has been entered into, the proposed declarant shall, at least ten days before delivering a deed or transfer for the unit to the purchaser, deliver to the purchaser a further copy of each document or instrument mentioned in subsection 1 or confirmation that the document or instrument is identical in all substantial or material respects to a corresponding document or instrument previously delivered to him under subsection 2.

Inaccurate statement of common expenses

(4) Where the total amount incurred for the common expenses provided for in the statement mentioned in clause *f* of subsection 1 or clause *f* of subsection 2 exceeds the total of the proposed amounts set out in the statement, the declarant shall forthwith pay to the corporation the amount of the excess except in respect of increased expenses attributable to the termination of an agreement under section 15a.

Application of section

(5) This section does not apply to agreements of purchase and sale entered into before the 1st day of April, 1975.

s. 24c,
enacted

15. The said Act is further amended by adding thereto the following section:

Trust money

24c.—(1) All money received by or on behalf of a proposed declarant from a purchaser on account of a sale or an agreement for the purchase and sale of a proposed unit for residential purposes before the registration of the declaration and description, other than money paid as rent or as an occupancy charge, shall be held in trust by the person receiving such money for the person entitled thereto in respect of the agreement and such money shall be held in a separate account designated as a trust account at a chartered bank or trust company or loan company authorized by law to receive money on deposit or a Province of Ontario Savings Office until,

(a) its disposition to the person entitled thereto; or

(b) delivery of prescribed security to the purchaser for repayment.

Interest

(2) Where an agreement of purchase and sale referred to in subsection 1 is terminated and the purchaser is entitled to the return of any money paid under the agreement, the proposed declarant shall pay to the purchaser interest on such money at the prescribed rate.

(3) Subject to subsection 2, where a purchaser of a proposed unit under an agreement of purchase and sale referred to in subsection 1 enters into possession or occupation of the unit before a deed or transfer of the unit acceptable for registration is delivered to him, the proposed declarant shall pay interest at the prescribed rate on all money received by him on account of the purchase price from the day the purchaser enters into possession or occupation until the day a deed or transfer acceptable for registration is delivered to him.

(4) Subject to subsections 2 and 3, the proposed declarant is entitled to any interest earned on the money required to be held in trust under subsection 1.

(5) This section does not apply in respect of money received before the day on which section 15 of *The Condominium Amendment Act, 1974* comes into force.

16. The said Act is further amended by adding thereto the following sections:

24d.—(1) A declarant or proposed declarant shall not grant a lease of a unit or proposed unit for residential purposes unless,

(a) the lessee has entered into a *bona fide* agreement to purchase the unit;

(b) the lease grants to the lessee a *bona fide* option to purchase the unit;

(c) every agreement of purchase and sale of a unit included in the property includes a statement that the unit to be included in the lease is or will be leased and specifies the uses that are or will be permitted by the lease; or

(d) written notice of the lessor's intention to lease the unit has been given to every purchaser under an agreement of purchase and sale, registered owner and mortgagee and chargee entitled to vote, and the period referred to in subsection 2 has expired or, where an application is made under subsection 2, it is finally disposed of.

(2) Any person notified under clause d of subsection 1 may, within twenty-one days after receiving the notice, and on written notice to the declarant, apply to a judge

of a county or district court, and the judge, if he is of the opinion that the declarant has not taken all reasonable steps to sell the unit, may by order prohibit the declarant from leasing the unit or grant such other relief as he considers proper.

**Contents
of notice**

(3) The notice mentioned in clause *d* of subsection 1 shall specify the unit or units intended to be leased and the uses that will be permitted by the lease but need not set out any other terms or identify any proposed lessee.

**Terms of
leases**

(4) A declarant or proposed declarant may grant leases of a unit or proposed unit for residential purposes for a period in each case not exceeding two years, including renewals, provided that subsection 1 is complied with in respect of each lease.

Exemption

(5) This section does not apply to the renewal of a lease of a unit or proposed unit entered into before any agreement of purchase and sale of any unit or proposed unit included in the property is entered into.

**Lease,
defined**

(6) In this section, "lease" includes a license to use or occupy and any agreement in the nature of a lease.

Offences

24*e*. Every person who knowingly contravenes section 11*a*, subsection 1 or 4 of section 15*b*, or subsection 1 of section 24*c*, or knowingly purports to enter into a lease in contravention of subsection 1 or 4 of section 24*d*, is guilty of an offence and on summary conviction is liable to a fine of,

(*a*) not more than \$25,000, where the person is a corporation; or

(*b*) not more than \$2,000, where the person is other than a corporation.

**s. 25 (1) (*k*),
re-enacted**

17. Clause *k* of subsection 1 of section 25 of the said Act is repealed and the following substituted therefor:

(*k*) governing funds intended for the payment of common expenses;

(*l*) requiring and governing the books, accounts and records that shall be kept by condominium corporations and requiring and governing the accounting to members of condominium corporations in such manner and at such times as are prescribed;

(*m*) exempting any class of person from this Act or the regulations or any provision thereof;

(n) prescribing security for the purposes of clause *b* of subsection 1 of section 24c;

(o) prescribing rates of interest that shall be paid on moneys required to be held in trust under this Act.

18. The said Act is further amended by adding thereto the following section:

LEASEHOLD CONDOMINIUMS

26.—(1) A person who is the lessee of land owned by and leased from the Crown or any agency of the Crown designated in the regulations for a term of not less than ninety-nine years may, with the consent of the Crown or the agency, register a declaration and description.

(2) The Crown or agency may enter into a lease of land with itself for the purposes of this section, in which case the lease shall not merge in the fee by operation of law.

(3) Upon the registration of a declaration and description under this section, the land and the interests appurtenant to the land described in the description are governed by this Act which, subject to subsection 6, applies *mutatis mutandis* thereto.

(4) The lessee from the Crown or agency who registers a declaration and description under this section may assign or transfer the leasehold estate in respect of each unit designated in the description and for the purposes of this Act he shall be deemed to be the declarant and the assignee shall be deemed to be the owner of the unit.

(5) Part IV of *The Landlord and Tenant Act* does not apply in respect of leases or assignments or transfers thereof that are subject to this section.

(6) The Lieutenant Governor in Council may make regulations,

(a) designating provisions of this Act that do not apply to properties in respect of which this section applies;

(b) making such modifications to the application of the provisions of this Act, other than this section, that apply to properties under this section as are considered necessary to adapt their application *mutatis mutandis* to leasehold condominium projects;

- (c) providing for such matters as are considered necessary for the purpose of effecting condominium projects in respect of leasehold land that are equivalent to those provided for by this Act in respect of freehold land;
- (d) designating agencies of the Crown for the purpose of subsection 1.

Commencement **19.**—(1) This Act, except sections 10, 15 and 18, comes into force on the 1st day of April, 1975.

Idem (2) Sections 10, 15 and 18 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **20.** This Act may be cited as *The Condominium Amendment Act, 1974.*



BILL 118

An Act to amend
The Condominium Act

1st Reading

June 25th, 1974

2nd Reading

December 5th, 1974

3rd Reading

February 14th, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial
Relations

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BILL 119

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974Legislative Assembly

An Act respecting Labour Disputes between the
Toronto Transit Commission and Division 113,
Amalgamated Transit Union, Lodge 235, Interna-
tional Association of Machinists and Aerospace
Workers and the Canadian Union of Public
Employees, Local No. 2

THE HON. J. MACBETH
Minister of Labour



TORONTO

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EXPLANATORY NOTE

The Bill provides for the settlement of all matters remaining in dispute between the Toronto Transit Commission and the three unions mentioned and requires the employees on whose behalf the unions bargain to resume their employment with the Toronto Transit Commission.

The Bill, without limiting the settlement, also makes provision for an increase in the hourly rates of wages of the employees effective from the day immediately following the expiry date of the collective agreement between the Toronto Transit Commission and each of the unions.

BILL 119**1974**

**An Act respecting Labour Disputes between
the Toronto Transit Commission and Division
113, Amalgamated Transit Union, Lodge 235,
International Association of Machinists and
Aerospace Workers and the Canadian Union
of Public Employees, Local No. 2**

WHEREAS the Toronto Transit Commission and Division Preamble 113, Amalgamated Transit Union, Lodge 235, International Association of Machinists and Aerospace Workers and the Canadian Union of Public Employees, Local No. 2, have been parties to collective agreements, all of which have expired; and whereas the parties have bargained for new collective agreements and to that end have exhausted conciliation services under *The Labour Relations Act*; and whereas strikes by the unions against the employer have continued since the 12th day of August, 1974; and whereas conciliation efforts have reached an impasse and the parties are unable to achieve a settlement of the disputes; and whereas the public interest and welfare requires that means be provided to bring the strikes to an end and to settle all matters that are in dispute between the parties in order that new collective agreements may be concluded between the parties;

R.S.O. 1970,
c. 232

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) “employer” means the Toronto Transit Commission;
- (b) “expiry date” means, in the case of the collective agreement between the Toronto Transit Commission and,
 - (i) Division 113, Amalgamated Transit Union, the 30th day of June, 1974;

- (ii) Lodge 235, International Association of Machinists and Aerospace Workers, the 31st day of March, 1974, and
 - (iii) the Canadian Union of Public Employees, Local No. 2, the 31st day of March, 1974;

(c) "Minister" means the Minister of Labour;

(d) "parties" means the employer and the unions;

(e) "unions" means Division 113, Amalgamated Transit Union, Lodge 235, International Association of Machinists and Aerospace Workers, and the Canadian Union of Public Employees, Local No. 2 or any one of them.

Idem (2) Unless a contrary intention appears, expressions used
R.S.O. 1970,
c. 232 in this Act have the same meaning as in *The Labour Relations
Act*.

Application of Act **2.**—(1) This Act applies to the parties and to the employees of the employer on whose behalf the unions are entitled to bargain with the employer under *The Labour Relations Act*.

Application of R.S.O. 1970, c. 232 (2) Except as modified by this Act, *The Labour Relations Act* applies to the parties and to the employees mentioned in subsection 1.

Appointment of arbitrator 3.—(1) The Lieutenant Governor in Council shall, upon the advice of the Minister, appoint an arbitrator to examine into and decide upon the matters referred to in section 4.

Replacement of arbitrator (2) Where the arbitrator is unable to enter on or to carry on his duties so as to enable him to render his decision within a reasonable time after his appointment, the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint another person to act as arbitrator in his place and the inquiry shall begin *de novo*.

Procedure (3) The arbitrator shall determine his own procedure, but shall give full opportunity to the employer and the unions to present their evidence and make their submissions.

(4) The arbitrator has all the powers of an arbitrator under *The Labour Relations Act*.

Duty of arbitrator **4.**—(1) The arbitrator shall examine into and decide all matters remaining in dispute between the employer and the

unions immediately before the coming into force of this Act, and any other matters that appear to the arbitrator to be necessary to be decided in order to conclude collective agreements between the parties.

(2) The arbitrator shall remain seized of and may deal with all matters within his jurisdiction until collective agreements between the employer and the unions are in effect. Arbitrator to remain seized of matters in dispute

(3) Where, before or during the proceedings before the arbitrator, the employer and the unions agree upon some matters to be included in the collective agreements and they so notify the arbitrator in writing, the arbitrator's decision shall be confined to, Agreement upon some matters

(a) the matters not agreed upon between the employer and the unions; and

(b) such other matters as may be agreed upon by the employer and the unions or may appear to the arbitrator to be necessary to be decided in order to conclude the collective agreements.

5.—(1) The decision of the arbitrator shall be binding upon the employer and the unions and the employees on whose behalf the unions are entitled to bargain with the employer under *The Labour Relations Act*. Decision binding

R.S.O. 1970,
c. 232

(2) Within seven days of the date of the decision of the arbitrator or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute documents giving effect to the decision of the arbitrator and any agreement of the parties, and the documents thereupon constitute collective agreements. Execution of agreement

(3) If the parties fail to prepare and execute documents in the form of collective agreements giving effect to the decision of the arbitrator and any agreement of the parties within the period mentioned in subsection 2, the parties or any of them shall notify the arbitrator in writing forthwith, and the arbitrator shall prepare documents in the form of collective agreements giving effect to the decision of the arbitrator and any agreement of the parties and submit the documents to the parties for execution. Preparation of agreement by board

(4) If the parties or any of them fail to execute the documents prepared by the arbitrator within a period of seven days from the day of submission of the documents by the arbitrator to them, the documents shall come into effect as though they had been executed by the parties and the documents thereupon constitute collective agreements under *The Labour Relations Act*. Failure to execute agreement

R.S.O. 1970,
c. 25 not
to apply

6.—(1) *The Arbitrations Act* does not apply to the proceedings under this Act.

Idem
1971, c. 47

(2) Part I of *The Statutory Powers Procedure Act, 1971* does not apply to the proceedings under this Act.

Hourly
rates of
wages

7. The basic hourly rates of wages for employees to whom this Act applies are hereby increased by 12 per cent over the basic hourly wage rates in effect on the expiry date retroactive in each case to the day immediately following the expiry date and the decision of the arbitrator shall include such increase, but nothing in this section prevents the arbitrator from granting increases in the basic hourly wage rates in excess of those established in this section.

Strikes
terminated

8.—(1) Upon the coming into force of this Act, the strikes shall be terminated immediately by the unions and the employees mentioned in subsection 1 of section 2.

R.S.O. 1970,
c. 232 not
to apply

(2) Notwithstanding any provision of *The Labour Relations Act*, upon the coming into force of this Act,

employees
to return
to work

(a) the employees mentioned in subsection 1 of section 2 shall report for work in accordance with the regular practices of the employer for the purpose of enabling the resumption of normal service, and shall not go on strike;

lock-out
prohibited

(b) the employer shall not cause a lock-out;

terms of
employment
not to be
altered

(c) the employer shall not, except with the consent of the unions, alter the rates of wages of the employees as increased by this Act, or any other term or condition of employment, or any right, privilege or duty of the unions or the employees, that were in operation on the expiry date; and

idem

(d) the unions shall not, except with the consent of the employer, alter any term or condition of employment or any right, privilege or duty of the employer, the unions or the employees, that were in operation on the expiry date.

Compliance
with sub-
section 2

(3) Any difference between the parties as to whether or not subsection 2 has been complied with may be referred to arbitration by the parties or any of them as if the collective agreements were still in operation, and section 37 of *The Labour Relations Act* applies *mutatis mutandis* thereto.

9. Subsection 3 of section 63, sections 65 and 66, sub-section 1 of section 67 and sections 82, 83, 84, 85, 86, 87, 88 and 90 of *The Labour Relations Act* apply *mutatis mutandis* under this Act as if such sections were enacted in and form part of this Act.

10. The employer and the unions shall assume their costs own costs of the proceedings under this Act, and the remuneration and expense of the arbitrator shall be paid out of the Consolidated Revenue Fund.

11. This Act comes into force on the day it receives Royal Assent and is repealed on the day on which the last of the three collective agreements made under this Act comes into operation.

12. This Act may be cited as *The Toronto Transit Commission Labour Disputes Settlement Act, 1974.*

BILL 119

An Act respecting
Labour Disputes between the
Toronto Transit Commission and
Division 113, Amalgamated Transit Union,
Lodge 235, International Association of
Machinists and Aerospace Workers and
the Canadian Union of Public Employees,
Local No. 2

1st Reading

August 30th, 1974

2nd Reading

3rd Reading

THE HON. J. MACBETH
Minister of Labour

(*Government Bill*)

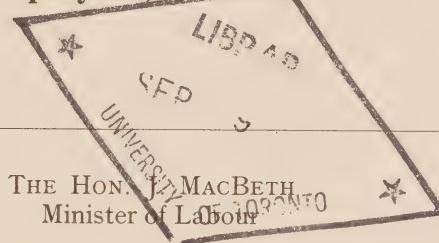
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BILL 119

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Government
Publications

An Act respecting Labour Disputes between the
Toronto Transit Commission and Division 113,
Amalgamated Transit Union, Lodge 235, Interna-
tional Association of Machinists and Aerospace
Workers and the Canadian Union of Public
Employees, Local No. 2



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 119**1974**

**An Act respecting Labour Disputes between
the Toronto Transit Commission and Division
113, Amalgamated Transit Union, Lodge 235,
International Association of Machinists and
Aerospace Workers and the Canadian Union
of Public Employees, Local No. 2**

WHEREAS the Toronto Transit Commission and Division Preamble 113, Amalgamated Transit Union, Lodge 235, International Association of Machinists and Aerospace Workers and the Canadian Union of Public Employees, Local No. 2, have been parties to collective agreements, all of which have expired; and whereas the parties have bargained for new collective agreements and to that end have exhausted conciliation services under *The Labour Relations Act*; and whereas R.S.O. 1970,
c. 232 strikes by the unions against the employer have continued since the 12th day of August, 1974; and whereas conciliation efforts have reached an impasse and the parties are unable to achieve a settlement of the disputes; and whereas the public interest and welfare requires that means be provided to bring the strikes to an end and to settle all matters that are in dispute between the parties in order that new collective agreements may be concluded between the parties;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

(a) “employer” means the Toronto Transit Commission;

(b) “expiry date” means, in the case of the collective agreement between the Toronto Transit Commission and,

(i) Division 113, Amalgamated Transit Union, the 30th day of June, 1974,

- (ii) Lodge 235, International Association of Machinists and Aerospace Workers, the 31st day of March, 1974, and
- (iii) the Canadian Union of Public Employees, Local No. 2, the 31st day of March, 1974;
- (c) "Minister" means the Minister of Labour;
- (d) "parties" means the employer and the unions;
- (e) "unions" means Division 113, Amalgamated Transit Union, Lodge 235, International Association of Machinists and Aerospace Workers, and the Canadian Union of Public Employees, Local No. 2 or any one of them.

Idem (2) Unless a contrary intention appears, expressions used in this Act have the same meaning as in *The Labour Relations Act*.

Application of Act **2.**—(1) This Act applies to the parties and to the employees of the employer on whose behalf the unions are entitled to bargain with the employer under *The Labour Relations Act*.

Application of R.S.O. 1970, c. 232 (2) Except as modified by this Act, *The Labour Relations Act* applies to the parties and to the employees mentioned in subsection 1.

Appointment of arbitrator **3.**—(1) The Lieutenant Governor in Council shall, upon the advice of the Minister, appoint an arbitrator to examine into and decide upon the matters referred to in section 4.

Replacement of arbitrator (2) Where the arbitrator is unable to enter on or to carry on his duties so as to enable him to render his decision within a reasonable time after his appointment, the Lieutenant Governor in Council shall, upon the advice of the Minister, appoint another person to act as arbitrator in his place and the inquiry shall begin *de novo*.

Procedure (3) The arbitrator shall determine his own procedure, but shall give full opportunity to the employer and the unions to present their evidence and make their submissions.

Powers of arbitrator (4) The arbitrator has all the powers of an arbitrator under *The Labour Relations Act*.

Duty of arbitrator **4.**—(1) The arbitrator shall examine into and decide all matters remaining in dispute between the employer and the

unions immediately before the coming into force of this Act, and any other matters that appear to the arbitrator to be necessary to be decided in order to conclude collective agreements between the parties.

(2) The arbitrator shall remain seized of and may deal with all matters within his jurisdiction until collective agreements between the employer and the unions are in effect. Arbitrator to remain seized of matters in dispute

(3) Where, before or during the proceedings before the arbitrator, the employer and the unions agree upon some matters to be included in the collective agreements and they so notify the arbitrator in writing, the arbitrator's decision shall be confined to, Agreement upon some matters

(a) the matters not agreed upon between the employer and the unions; and

(b) such other matters as may be agreed upon by the employer and the unions or may appear to the arbitrator to be necessary to be decided in order to conclude the collective agreements.

5.—(1) The decision of the arbitrator shall be binding upon the employer and the unions and the employees on whose behalf the unions are entitled to bargain with the employer under *The Labour Relations Act*. Decision binding

R.S.O. 1970,
c. 232

(2) Within seven days of the date of the decision of the arbitrator or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute documents giving effect to the decision of the arbitrator and any agreement of the parties, and the documents thereupon constitute collective agreements. Execution of agreement

(3) If the parties fail to prepare and execute documents in the form of collective agreements giving effect to the decision of the arbitrator and any agreement of the parties within the period mentioned in subsection 2, the parties or any of them shall notify the arbitrator in writing forthwith, and the arbitrator shall prepare documents in the form of collective agreements giving effect to the decision of the arbitrator and any agreement of the parties and submit the documents to the parties for execution. Preparation of agreement by board

(4) If the parties or any of them fail to execute the documents prepared by the arbitrator within a period of seven days from the day of submission of the documents by the arbitrator to them, the documents shall come into effect as though they had been executed by the parties and the documents thereupon constitute collective agreements under *The Labour Relations Act*. Failure to execute agreement

R.S.O. 1970,
c. 25 not
to apply

6.—(1) *The Arbitrations Act* does not apply to the proceedings under this Act.

Idem
1971, c. 47

(2) Part I of *The Statutory Powers Procedure Act, 1971* does not apply to the proceedings under this Act.

Hourly
rates of
wages

7. The basic hourly rates of wages for employees to whom this Act applies are hereby increased by 12 per cent over the basic hourly wage rates in effect on the expiry date retroactive in each case to the day immediately following the expiry date and the decision of the arbitrator shall include such increase, but nothing in this section prevents the arbitrator from granting increases in the basic hourly wage rates in excess of those established in this section.

Strikes
terminated

8.—(1) Upon the coming into force of this Act, the strikes shall be terminated immediately by the unions and the employees mentioned in subsection 1 of section 2.

R.S.O. 1970,
c. 232 not
to apply

(2) Notwithstanding any provision of *The Labour Relations Act*, upon the coming into force of this Act,

employees
to return
to work

(a) the employees mentioned in subsection 1 of section 2 shall report for work in accordance with the regular practices of the employer for the purpose of enabling the resumption of normal service, and shall not go on strike;

lock-out
prohibited

(b) the employer shall not cause a lock-out;

terms of
employment
not to be
altered

(c) the employer shall not, except with the consent of the unions, alter the rates of wages of the employees as increased by this Act, or any other term or condition of employment, or any right, privilege or duty of the unions or the employees, that were in operation on the expiry date; and

idem

(d) the unions shall not, except with the consent of the employer, alter any term or condition of employment or any right, privilege or duty of the employer, the unions or the employees, that were in operation on the expiry date.

Compliance
with sub-
section 2

(3) Any difference between the parties as to whether or not subsection 2 has been complied with may be referred to arbitration by the parties or any of them as if the collective agreements were still in operation, and section 37 of *The Labour Relations Act* applies *mutatis mutandis* thereto.

9. Subsection 3 of section 63, sections 65 and 66, sub- Application
section 1 of section 67 and sections 82, 83, 84, 85, 86, 87, of
88 and 90 of *The Labour Relations Act* apply *mutatis* R.S.O. 1970,
mutandis under this Act as if such sections were enacted C. 232
in and form part of this Act.

10. The employer and the unions shall assume their costs own costs of the proceedings under this Act, and the remuneration and expense of the arbitrator shall be paid out of the Consolidated Revenue Fund.

11. This Act comes into force on the day it receives Commencement and Royal Assent and is repealed on the day on which the last repeal of the three collective agreements made under this Act comes into operation.

12. This Act may be cited as *The Toronto Transit Commission Labour Disputes Settlement Act, 1974.* Short title

BILL 119

An Act respecting
Labour Disputes between the
Toronto Transit Commission and
Division 113, Amalgamated Transit Union,
Lodge 235, International Association of
Machinists and Aerospace Workers and
the Canadian Union of Public Employees,
Local No. 2

1st Reading

August 30th, 1974

2nd Reading

August 31st, 1974

3rd Reading

August 31st, 1974

THE HON. J. MACBETH
Minister of Labour

CA20N

Government
Publications

X B

BILL 120

Government Bill

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Legislative Assembly

An Act to amend The Legislative Assembly Act

THE HON. E. A. WINKLER
Chairman, Management Board of Cabinet

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The section being repealed provides that no writ for the election of a member to the Assembly shall issue during a session of the Legislature where the vacancy is occasioned by the resignation of a member.

SECTION 2. Complementary to section 1.

BILL 120**1974**

**An Act to amend
The Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 25 of *The Legislative Assembly Act*, being chapter 240<sup>s. 25,
repealed</sup> of the Revised Statutes of Ontario, 1970, is repealed.
2. Subsection 1 of section 28 of the said Act, as re-enacted by<sup>s. 28 (1),
amended</sup> the Statutes of Ontario, 1971, chapter 101, section 1, is amended by striking out “Subject to section 25” in the first line.
3. This Act comes into force on the day it receives Royal Assent. ^{Commencement}
4. This Act may be cited as *The Legislative Assembly Amendment Act, 1974.* ^{Short title}

BILL 120

An Act to amend
The Legislative Assembly Act

1st Reading

August 30th, 1974

2nd Reading

3rd Reading

THE HON. E. A. WINKLER
Chairman, Management Board of
Cabinet

(Government Bill)

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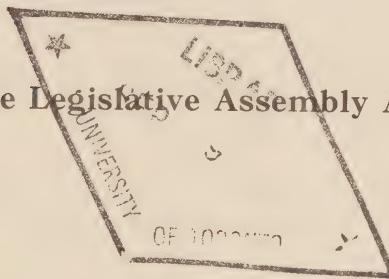
-B 56

BILL 120

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Government
Publications

An Act to amend The Legislative Assembly Act



THE HON. E. A. WINKLER
Chairman, Management Board of Cabinet

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 120**1974**

**An Act to amend
The Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 25 of *The Legislative Assembly Act*, being chapter 240<sup>s. 25,
repealed</sup> of the Revised Statutes of Ontario, 1970, is repealed.
2. Subsection 1 of section 28 of the said Act, as re-enacted by<sup>s. 28 (1),
amended</sup> the Statutes of Ontario, 1971, chapter 101, section 1, is amended by striking out “Subject to section 25” in the first line.
3. This Act comes into force on the day it receives Royal Assent.^{Commencement}
4. This Act may be cited as *The Legislative Assembly Amendment Act, 1974*.^{Short title}

BILL 120

An Act to amend
The Legislative Assembly Act

1st Reading

August 30th, 1974

2nd Reading

August 31st, 1974

3rd Reading

August 31st, 1974

THE HON. E. A. WINKLER
Chairman, Management Board of
Cabinet

Ontario. Legislative Assembly

CAZON

BILL 121

Private Member's Bill

XB

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

-B 56

An Act to amend The Legislative Assembly Act



MR. NIXON (Brant)

TORONTO

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EXPLANATORY NOTE

The purpose of the Bill is to provide for the calling of a by-election when the Legislature is in session but is not sitting.

BILL 121**1974****An Act to amend The Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 25 of *The Legislative Assembly Act*, being chapter 240<sup>s. 25,
re-enacted</sup> of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

25. No writ shall issue under sections 18 to 24 during a session of the Legislature, except that the Legislature shall not be deemed to be in session for the purposes of sections 18 to 24 if it has been adjourned for a period of more than seven days.

2. This Act comes into force on the day it receives Royal Assent.
3. This Act may be cited as *The Legislative Assembly Amendment Act, 1974*.

BILL 121

An Act to amend
The Legislative Assembly Act

1st Reading

August 30th, 1974

2nd Reading

3rd Reading

MR. NIXON (Brant)

(*Private Member's Bill*)

CA2ON

XB

-B 56

BILL 122

Private Member's Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Employment Standards Act

MR. DREA



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

Self-explanatory.

BILL 122**1974**

**An Act to amend
The Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *f* of subsection 1 of section 36 of *The Employment Standards Act*, being chapter 147 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(*f*) exempting any class of employers or employees from the application of this Act or the regulations or any provision thereof, except for a superintendent, janitor or caretaker of a residential building who resides in the building.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Employment Standards Amendment Act, 1974*. Short title

BILL 122

An Act to amend
The Employment Standards Act

1st Reading

October 22nd, 1974

2nd Reading

3rd Reading

MR. DREA

(*Private Member's Bill*)

CAZON
XB
-B 56

BILL 123

Private Member's Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend
The Statutory Powers Procedure Act, 1971

MR. LEWIS



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The amendment further extends the meaning of "person" to include "an unincorporated ratepayers' association".



BILL 123**1974**

**An Act to amend
The Statutory Powers Procedure Act, 1971**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 1 of *The Statutory Powers Procedure Act, 1971*, being chapter 47, is amended by inserting after "municipality" in the first line "an unincorporated rate-payers' association".<sup>s.1(2),
amended</sup>
2. This Act comes into force on the day it receives Royal Assent.^{Commencement}
3. This Act may be cited as *The Statutory Powers Procedure Amendment Act, 1974*.^{Short title}

BILL 123

An Act to amend
The Statutory Powers Procedure
Act, 1971

1st Reading

October 24th, 1974

2nd Reading

3rd Reading

MR. LEWIS

(*Private Member's Bill*)

CA20N

XB

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Government
Publication

An Act to amend The Planning Act

MR. LEWIS



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The amendments further extend the meaning of "person" to include "an unincorporated ratepayers' association".

BILL 124**1974**

An Act to amend The Planning Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 35 of *The Planning Act*, being chapter 349 of the ^{s. 35,} ^{amended} Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 118, section 6, is further amended by adding thereto the following subsection:
 - (1b) For the purposes of subsections 11, 12, 18, 23, 24, ^{Meaning of} ^{"person"} 25, 26 and 27, "person" or "persons" shall include an ^{extended} unincorporated ratepayers' association.
2. Section 42 of the said Act, as amended by the Statutes of ^{s. 42,} ^{amended} Ontario, 1971, chapter 2, section 5 and 1972, chapter 118, section 10, is further amended by adding thereto the following subsection:
 - (21) For the purposes of subsections 13 and 15, "person" ^{Meaning of} ^{"person"} or "persons" shall include an unincorporated ratepayers' ^{extended} association.
3. This Act comes into force on the day it receives Royal ^{Commencement} Assent.
4. This Act may be cited as *The Planning Amendment Act, 1974.* ^{Short title}

An Act to amend
The Planning Act

1st Reading

October 24th, 1974

2nd Reading

3rd Reading

MR. LEWIS

(*Private Member's Bill*)

CAZON
XB
-B 56

Ontario. Legislative Assembly

Publications

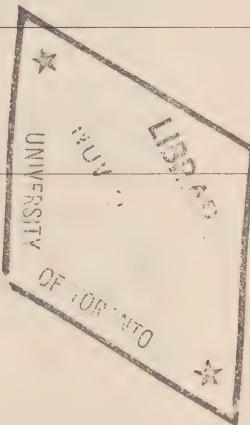
BILL 125

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

**An Act to amend
The Land Speculation Tax Act, 1974**

THE HON. A. K. MEEN
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The amendment is consequential on the addition of two new sub-subclauses.

Subsection 2. The re-enactment of sub-subclause B eliminates the reference to devolutions by will or on intestacy and gives an acquisition cost of fair market value to all persons taking designated land as the result of a death.

The addition of sub-subclause BA deals with persons disposing of designated land acquired through a trust, and gives them an acquisition cost equal to the fair market value of the land when it was transferred into the trust.

The addition of sub-subclause BB establishes the acquisition cost of a lessee disposing of his lease or subleasing portions of land that he has leased. The acquisition cost will only be applicable when the sale of the leased land or the subleasing of it is, itself, a disposition.

BILL 125**1974**

**An Act to amend
The Land Speculation Tax Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Sub-subclause A of subclause i of clause *a* of sub-^{s.1(1)(a)}
^{(1)(A),} section 1 of section 1 of *The Land Speculation Tax Act, 1974*, being chapter 17, is amended by inserting after “B” in the second line “BA, BB.”.
- (2) Sub-subclause B of subclause i of clause *a* of sub-^{s.1(1)(a)}
^{(1)(B),} section 1 of the said section 1 is repealed and the re-enacted following substituted therefor:
 - (B) as the result of a disposition described in subclause iv of clause *d* occurring on the death of a person dying after the 9th day of April, 1974, the fair market value of the designated land at the death of such person,
 - (BA) as the result of the creation of a trust of which the transferor was or became a beneficiary, or as the result of the distribution of the designated land to the transferor under the terms of a trust of which the transferor was, at the time of such distribution, a beneficiary, the fair market value of the designated land at the time it first became subject to the trust if it first became subject to the trust after the 9th day of April, 1974, or where the designated land first became subject to the trust on or prior to that date, the fair market value of the designated land on that date, and the existence with respect to the designated land of

any limited beneficial interest, whether for the life of some person or otherwise, that affected the designated land after the creation of the trust shall not be taken into account to reduce the fair market value of the designated land for the purposes of this sub-subclause,

(BB) as the result of a disposition to him the proceeds of which were required to be determined in accordance with sub-clause iv of clause *l*, an amount equal to the proceeds of disposition so determined or to the proportion thereof that is reasonably attributable to the designated land with respect to which a lease or similar arrangement is being entered into by the transferor or with respect to which rights under any lease or similar arrangement are being sold, assigned or transferred by the transferor in circumstances that constitute a disposition by him within the meaning of subclause iii of clause *d*.

s. 1 (1) (a)
(i) (C),
amended

(3) Sub-subclause C of subclause i of clause *a* of subsection 1 of the said section 1 is amended by adding at the commencement thereof "subject to sub-subclauses B, BA, BB and D".

s. 1 (1) (a)
(i) (D),
re-enacted

(4) Sub-subclause D of subclause i of clause *a* of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(D) as the result of a disposition exempt from tax by virtue of clause *h* of section 4, the fair market value applicable to the designated land on the earliest day of the period determined under sub-clause v during which compound interest may be calculated in accordance with that subclause by the transferor making the disposition to the calculation of the adjusted value of which that subclause is applicable.

s. 1 (1) (a) (ii),
amended

(5) Subclause ii of clause *a* of subsection 1 of the said section 1 is amended by adding at the end thereof "or the cost to the transferor of its acquisition, whichever is the higher amount,".

Subsection 3. The words added at the beginning of sub-subclause C make it clear that the special rules for establishing the acquisition cost of designated land provided for in other sub-subclauses of subclause i take priority over the rules for establishing acquisition cost set out in sub-subclause C.

Subsection 4. This amendment clarifies the acquisition cost applicable on a disposition of farming land exempt by section 4 (h) of the Act. The determination of this acquisition cost will become relevant only when a disposition of the farming land is made that is not exempt under that clause. Such non-exempt dispositions will be those resulting from death and those in which the farming land is sold outside the family. In the first case, the effect of the amendment made to section 1 (1) (a) (i) (B) is that the land will be acquired at its fair market value at the date of death. In the second case, the transferor making the non-exempt disposition outside the family will be entitled to add compound interest, and the amendment to sub-subclause D provides that the compound interest will be based on the market value of the farming land at the beginning of the period during which compound interest can be calculated.

Subsection 5. This amendment provides that, where land acquired before April 9, 1974 is being disposed of, the transferor may use the higher of the fair market value of the designated land on that date or its actual cost of acquisition to him prior to that date. A person holding land at April 9, 1974 will not, therefore, be penalized by the fact that the land may have fallen in value between the date when he acquired it and April 9, 1974.

Subsection 6. The words added by this amendment allow the addition to farming land of costs of improvement made during the period when compound interest could be calculated with respect to a disposition of the farming land outside the family. For dispositions within the family, no calculations of adjusted value are required, since the dispositions will be exempt, and dispositions resulting from death will automatically take into account any value added to the land by improvements prior to death, since the person taking on death will take the land at its fair market value at death.

Subsection 7. The re-enactment of subclause iv makes two changes to the addition to adjusted value of net maintenance costs. The first change is that these costs may be averaged over the period of time the designated land was owned by the transferor subject to a limit of 10 per cent per annum of the acquisition cost of the designated land. The second change is that, in the case of a disposition of farming land, net maintenance costs may be added for the whole of the period during which compound interest can be added by the transferor under section 1 (1)(a)(v). This period will correspond to the time that the land was held by the family after April 9, 1974 or to the time at which the land was last revalued at market value as the result of the death of a person.

The addition of subclause *iv(a)* will allow all costs of disposition to be added to the adjusted value on any disposition of designated land.

- (6) Subclause iii of clause *a* of subsection 1 of the said section 1 is amended by adding at the end thereof "and, in the case of a transferor making a disposition of designated land used in farming that is neither a disposition within the meaning of subclause iv of clause *d* nor a disposition exempt from tax by virtue of clause *h* of section 4, the cost of improvements made to the designated land since the earliest day of the period determined under subclause v during which compound interest may be calculated in accordance with that subclause by the transferor and up to the earliest date that an improvement was made to the designated land by the transferor the cost of which is included by virtue of this subclause in computing adjusted value,".
- (7) Subclause iv of clause *a* of subsection 1 of the said section 1 is repealed and the following substituted therefor:
- (iv) for that period that is not the shorter of,
 - (A) the period of time commencing on the 9th day of April, 1974 or the date upon which the designated land was acquired by the transferor, whichever is the later date, and during which the transferor owned the designated land, or
 - (B) the period of time commencing on the earliest day of the period determined under subclause v during which compound interest may be calculated in accordance with that subclause by the transferor and ending on the day of the disposition by the transferor,
- the lesser of either,
- (C) five-sixths of 1 per cent times the number of full months in the period determined to be applicable under either sub-subclause A or B times the amount determined under either sub-clause i or ii, whichever is applicable, or
 - (D) the total net maintenance costs incurred with respect to the designated land during the period determined to be applicable under either sub-sub-clause A or B,

- s. 1(1)(a)(v),
re-enacted
- (8) Subclause v of clause *a* of subsection 1 of the said section 1 is repealed and the following substituted therefor:
- (v) in the case of a disposition of designated land used in farming that is neither a disposition within the meaning of subclause iv of clause *d* nor a disposition exempt from tax by virtue of clause *h* of section 4, an amount equal to compound interest at the rate of 10 per cent per annum calculated with annual rests upon the amount determined under subclause i or ii, whichever is applicable to the transferor, for the number of years in the period of time preceding the disposition and commencing on the 9th day of April, 1974 or the date of the occurrence of any disposition of such designated land within the meaning of subclause iv of clause *d* or the date of the occurrence of any disposition of such designated land that was not exempt from tax by virtue of clause *h* of section 4, whichever is the later date, throughout which farming was carried on on such designated land by the transferor or by any previous owner of such designated land or by a shareholder or member of the family of the transferor or such previous owner.
- s. 1(1)(d)(iii),
amended
- (9) Subclause iii of clause *d* of subsection 1 of the said section 1 is amended by striking out "ten" in the fifth line and inserting in lieu thereof "fifty" and by adding at the end thereof "if at the time of the sale, assignment or transfer of such rights, the term remaining under such lease or arrangement, including any renewals or extensions thereof, may exceed fifty years."
- s. 1(1)(d)(vi),
amended
- (10) Subclause vi of clause *d* of subsection 1 of the said section 1 is amended by inserting after "issue" in the third line "(other than an allotment and issue of shares made to the holders of all shares to which are attached rights to vote ordinarily exercisable at meetings of the

Subsection 8. The re-enactment of subclause v clarifies the period for which a transferor disposing of farming land outside the family is entitled to add compound interest to the acquisition cost of the land. The period for which compound interest can be added is that period preceding the disposition and going back no further than the latest to occur of:

- (a) April 9, 1974,
- (b) the death of any person from whom the land devolved, or
- (c) the acquisition of the land through a disposition that was not exempt under section 4 (h), i.e., from a person outside the family.

Together with the amendment made to section 1 (1)(a)(i)(B), this amendment ensures that compound interest can be claimed throughout the period that farming was carried on by the family and in which no write-up of the market value of the land occurred as the result of death. During the period in which compound interest may be claimed, compound interest can only be added for the years during that period that farming was actually carried on on the designated land by the family operating the farm.

Subsection 9. The amendments made here provide that only leases over 50 years will constitute dispositions of designated land, and the sale or transfer of such a lease will only be a disposition where the remaining term exceeds 50 years.

Subsection 10. The amendment excludes from dispositions by the issue of shares those dispositions that have the effect only of proportionally increasing the number of voting shares held by each shareholder of a corporation. The intent is that, where the ratio of share ownership is not altered by an allotment and issue of shares, no disposition will result.

Subsection 11. The addition of clause *ea* adds to the Act a more comprehensive definition of "farming assets" than is contained in the present Act.

Subsection 12. The definition of "farming corporation" is expanded to clarify the family relationship required to exist among the shareholders of the corporation and the fact that the corporation must carry on farming in Ontario.

shareholders of the corporation and issued in proportion to their ownership of such shares immediately prior to such allotment and issue”).

- (11) Subsection 1 of the said section 1 is amended by adding ^{s.1(1),} ~~amended~~ thereto the following clause:

(ea) “farming assets” of a farming corporation means,

- (i) cash, trade accounts receivable, supplies and inventory of commodities or things produced, raised or grown through farming carried on by the farming corporation of which they are assets,
 - (ii) land, buildings, equipment, machinery and live stock that are used chiefly in the operation of the farm by the farming corporation,
 - (iii) any right or licence granted or issued under any Act of the Legislature that permits or regulates the production or sale of any commodity or thing produced, raised or grown through farming,
 - (iv) the building in which a shareholder of the farming corporation or a member or members of his family reside who is or are engaged in the operation of the farm if that building is on land that is used, or that is contiguous to land that is used, by that shareholder or member or members of his family in the operation of the farm, and
 - (v) shares in another farming corporation whose shareholders are members of the family of one or more of the shareholders of the farming corporation owning the shares of such other farming corporation.
- (12) Clause *f* of subsection 1 of the said section 1 is repealed ^{s.1(1)(f),} ~~re-enacted~~ and the following substituted therefor:

(f) “farming corporation” means a corporation,

- (i) each share of which that confers on the holder thereof the right to vote is, at the date of any disposition with respect to which the expression is being applied, owned by one individual ordinarily resident in

Canada, by an individual ordinarily resident in Canada who is a member of the family of every other shareholder of the corporation, or by an individual ordinarily resident in Canada of whose family every other shareholder of the corporation is a member ordinarily resident in Canada,

- (ii) 95 per cent of the assets of which are farming assets, and
- (iii) which carries on farming in Ontario.

s. 1(1)(l),
amended

- (13) Clause *l* of subsection 1 of the said section 1 is amended,

(a) by striking out "or" at the end of subclause ii;

(b) by adding "or" at the end of subclause iii;

(c) by adding thereto the following subclause:

(iv) an amount equal to the fair market value of the designated land with respect to which any lease or similar arrangement has been entered into, or with respect to which the rights under any lease or similar arrangement that have been sold, assigned or transferred are exercisable, where the entering into such lease or similar arrangement or the sale, assignment or transfer of rights thereunder is a disposition within the meaning of subclause iii of clause *d*,

and

(d) by striking out "under the last will and testament of any person or on the intestacy of any person" in the thirty-ninth and fortieth lines and inserting in lieu thereof "described in subclause iv of clause *d*".

s. 1(6),
amended

- (14) Subsection 6 of the said section 1 is amended by striking out ", 50 per cent or more of the assets of which consist of designated land," in the first, second and third lines.

s. 1(8),
repealed

- (15) Subsection 8 of the said section 1 is repealed.

s. 1(9),
amended

- (16) Subsection 9 of the said section 1 is amended by striking out "or of subsection 8," in the second line and by striking out "subsection 8 and" in the twentieth line.

Subsection 13. The changes made in clause *l* are consequential on changes made in earlier provisions of the Act. The addition of subclause iv provides that, on a disposition of designated land by entering into a lease or by selling the rights under a lease, the proceeds of disposition will be the fair market value of the underlying land. In view of earlier amendments, this valuation will only apply to leases of more than 50 years. Clause *l* is also amended to provide that no proceeds of disposition arise on any disposition resulting from death, and the reference to devolutions by will or on intestacy is removed.

Subsection 14. The change to subsection 6, together with a change later to be proposed for section 4 (c), will enable any corporation to distribute designated land to its shareholders without tax, but the shareholders will, for the purposes of a subsequent disposition by them of the designated land, be deemed to acquire it at the acquisition cost to the corporation.

Subsection 15. The present subsection 8 of the Act is no longer necessary because of changes made to section 1 (1) (a) (iv) of the Act dealing with the addition of net maintenance costs to adjusted value.

Subsection 16. The changes made to section 1 (9) are consequential on the repeal of subsection 8.

Subsection 17. The addition of subsection 10 provides rules applicable to organizations and corporations in determining when 50 per cent or more of their assets consist of designated land. The new provisions provide that the 50 per cent is to be computed by reference to the fair market value of all the assets of the corporation or organization, and that shares in other land-owning corporations will be treated as designated land in the hands of the corporation or organization owning such shares. Certain shares which do not entitle the holder thereof to participate in capital growth or appreciation are excluded from computation of the assets consisting of designated land.

SECTION 2.—Subsection 1. The amendment provides that interest is not to be calculated until the transaction of which the disposition is a part has been completed or until 90 days after the occurrence of the disposition, whichever is later.

Subsection 2. This provision provides that no tax is payable where, although a disposition may technically have taken place, the sale or transfer is never completed.

(17) Section 1 of the said Act is further amended by adding ^{s. 1,}
thereto the following subsection:

(10) Where, for the purposes of this Act or the regulations, it is necessary to determine whether 50 per cent or more of the assets of any organization, syndicate, association of persons, partnership, joint venture or corporation with or without share capital consist of designated land, the following rules apply,

- (a) all assets shall be valued at their fair market value ascertained as at the time the determination is required to be made;
- (b) assets consisting of designated land shall be deemed to include the shares of any corporation that is, or that in fact directly or indirectly controls, a corporation 50 per cent or more of the fair market value of all of the assets of which, determined in accordance with these rules, consist of designated land, unless such shares do not entitle the holder thereof ordinarily to vote at meetings of shareholders of the corporation and entitle the holder thereof only to dividends, to the return of capital paid to the corporation for the allotment and issue of such shares, or to a premium of not more than 10 per cent of such capital on the redemption of such shares, their purchase for cancellation by the corporation, or the winding-up or dissolution of the corporation; and
- (c) the percentage of assets consisting of designated land shall be determined by reference to the fair market value of all assets of the organization, syndicate, association of persons, partnership, joint venture or corporation with or without share capital with respect to the assets of which the expression is being applied.

2.—(1) Subsection 3 of section 2 of the said Act is amended ^{s. 2 (3),}
by inserting after “interest” in the fourth line “from the later of ninety days after the disposition or the date of completion of the transaction of which the disposition is a part”.

(2) The said section 2 is amended by adding thereto the ^{s. 2,}
following subsection:

(5) Notwithstanding anything to the contrary in this Act, where a disposition of or with respect to designated

No tax on
failure of
disposition

land occurs and the transaction, sale or transfer of which the disposition is a part is not completed, and where, following such failure of completion, the transferor who made the disposition is in the same position with respect to the ownership of the designated land as he would have been had the disposition not occurred, no tax is payable with respect to such disposition.

s. 4(b),
amended

3.—(1) Clause *b* of section 4 of the said Act is amended by adding at the end thereof “by Ontario Hydro or by an authority as defined in *The Conservation Authorities Act*”.

s. 4(c),
amended

(2) Clause *c* of the said section 4 is amended by striking out “, 50 per cent or more of the assets of which consist of designated land,” in the second and third lines.

s. 4(e),
amended

(3) Clause *e* of the said section 4 is amended by striking out “ten” in the eighth line and inserting in lieu thereof “eleven”.

s. 4(h),
amended

(4) Clause *h* of the said section 4 is amended by inserting after “of” in the first line “otherwise than as a disposition within the meaning of subclause iv of clause *d* of subsection 1 of section 1,” and by inserting after “corporation” in the eighth line “or a shareholder or shareholders thereof”.

s. 4(i),
amended

(5) Clause *i* of the said section 4 is amended by striking out “or” in the fourth line.

s. 4(j),
amended

(6) Clause *j* of the said section 4 is amended by inserting after “*Act*,” in the third line “an authority as defined in *The Conservation Authorities Act*,”.

s. 4,
amended

(7) The said section 4 is amended by adding thereto the following clauses:

(k) when the designated land at the time of its disposition, as defined in this clause,

(i) has not previously been disposed of by a disposition for which exemption was claimed under this clause or under section 21,

(ii) is included in a registered plan of subdivision or is the subject of a consent obtained under section 29 of *The Planning Act*, and

(iii) has, at the expense of the transferor, been,

R.S.O. 1970,
c. 349

SECTION 3.—Subsection 1. This amendment exempts dispositions of designated land to Ontario Hydro and to conservation authorities.

Subsection 2. The amendment provides that distributions of designated land to the shareholders of a corporation that is being wound-up or dissolved are exempt from tax, but the earlier amendment to section 1 (6) of the Bill will provide that shareholders who take such land exempt from tax will take it at the acquisition cost applicable to the corporation.

Subsection 3. The amount of contiguous land exempt on the disposition of a principal residence is raised from ten to eleven acres.

Subsection 4. The amendments made here provide that dispositions resulting from death are not exempt from tax by virtue of section 4 (h), and a further amendment clarifies that dispositions by a farming corporation to its shareholders will be exempt from tax. Dispositions resulting from death are excluded from this exemption because they give rise to an automatic increase in the value of the designated land to its market value at the date of death, and because no proceeds of disposition arise on a disposition resulting from death. The amendment is consistent with those made earlier in the Bill with relation to dispositions of farming land.

Subsection 5. This amendment is consequential on the addition of clause *k* to section 4.

Subsection 6. This amendment exempts dispositions made by conservation authorities.

Subsection 7. This amendment adds clause *k* to section 4 of the Act. Clause *k* deals with the disposition of land that has been subdivided and serviced to the stage where building permits will be issued with respect to the land. Where building permits are not required, the exemption will be available when the land has been serviced in accordance with any requirements imposed under *The Planning Act*. This amendment is intended to replace section 21 of the present Act. The addition of clause *l* exempts dispositions of land in unorganized territory if the land is not located in a restricted area designated under *The Public Lands Act* for which permits are required to improve or build upon the land.

e

- (A) in the case where an agreement enforceable against the transferor has been entered into pursuant to clause d of subsection 5 of section 33 of *The Planning Act*, wholly or partly serviced for the purpose of complying with requirements for servicing contained in such agreement, or R.S.O. 1970,
c. 349
- (B) in the case where the designated land disposed of is the subject of a consent obtained under section 29 of *The Planning Act*, wholly or partly serviced for the purpose of complying with any conditions respecting the servicing of the designated land that are imposed pursuant to subsection 12 of section 29 of that Act, and
- (C) in all cases, wholly or partly serviced to the extent that construction of a building on the designated land disposed of could lawfully be commenced and, where applicable, to the further extent that a permit authorized by a by-law passed pursuant to subsection 1 of section 38 of *The Planning Act* R.S.O. 1970,
cc. 349, 380 by the municipality within which the designated land disposed of is situated, or a permit authorized by section 17 of *The Public Lands Act*, would be available,

and for the purpose of determining the time at which a transferor making a disposition described in this clause is first entitled to the exemption conferred by this clause, the expression "time of its disposition" means the time when the person to whom the disposition is made is first entitled to call for delivery to him of a conveyance or transfer of the designated land disposed of or of some other document or evidence of title the agreement to give which was a disposition of the designated land, and no disposition of designated land that is exempt from tax by virtue of this clause shall be deemed to have occurred, for the purposes of this Act, until the time of its disposition, as defined in this clause; or

- R.S.O. 1970,
c. 380
- (l) when the designated land disposed of is situated in territory without municipal organization that is not designated as a restricted area pursuant to section 17 of *The Public Lands Act*.

s. 5 (3),
amended

- 4.** Subsection 3 of section 5 of the said Act is amended by striking out "in order to recognize or give effect to the disposition, it is necessary to register" in the first, second and third lines and inserting in lieu thereof "as a result of the disposition, there is registered" and by striking out "described in a clause and, where applicable, a subclause (which clause and subclause shall be expressly named in the affidavit) of section 4 of this Act" in the fourteenth, fifteenth and sixteenth lines and inserting in lieu thereof "not liable to the tax imposed by subsection 1 of section 2 by virtue of a provision of this Act or the regulations (which provision shall be expressly named in the affidavit)".

s. 20 (2),
re-enacted

- 5.** Subsection 2 of section 20 of the said Act is repealed and the following substituted therefor:

Investment
property
reduction

(2) Where designated land that is an investment property is disposed of, the taxable value, computed as if this section was not applicable, of the investment property disposed of shall be reduced by an amount equal to one-tenth thereof for each full twelve-month period up to a maximum of ten such periods that is comprised in an uninterrupted period of time,

- (a) that commenced prior to, and ended on, the day on which the disposition occurs; and
- (b) throughout the whole of which the investment property disposed of was owned by the transferor, the transferor's spouse or the transferor and his spouse and was an investment property or the principal residence of the transferor or the transferor's spouse.

Farm
property
reduction

(3) Where designated land that is used in farming is disposed of and the disposition is neither a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 nor a disposition exempt from tax by virtue of clause h of section 4, the taxable value, computed as if this section was not applicable, of the designated land disposed of shall be reduced by an amount equal to one-tenth thereof for each full twelve-month period up to a maximum of ten such periods that is comprised in an uninterrupted period of time,

SECTION 4. This amendment clarifies the application of the use of the affidavit of exemption which will enable the purchaser of designated land to take it free from the lien imposed by the Act. The affidavit of exemption may now be used in any circumstances where tax is not imposed by section 2 (1) of the Act.

SECTION 5. The investment property reduction is expanded. The requirement that the property must be held until April 9, 1977 has been removed, and the period for which a reduction may be claimed is enlarged to include the time when the transferor or his spouse owned the property or used it as a principal residence; provided that, at the time of disposition, the property is an investment property. In addition, the reduction may be claimed for years earlier than April 9, 1974 if the property otherwise qualified for the reduction during those years.

The addition of subsection 3 provides a similar reduction for farm property so that, where farm property has been retained and farmed in the family for ten years, it can be disposed of exempt from tax. The ten year period includes years earlier than April 9, 1974.

SECTION 6. This amendment provides that section 21 of the Act will cease to be in force on March 1, 1975.

SECTION 7. The amendment authorizes the Lieutenant Governor in Council to make regulations for establishing formulae to reduce the percentages in relation to improvements, renovations and the investment property reduction required under the Act.

- (a) that commenced prior to, and ended on, the day on which the disposition occurs;
- (b) throughout the whole of which farming was carried on on the designated land by the transferor, by a person or persons who was or were members of the family of the transferor or, where the transferor is a farming corporation, was or were shareholders of that corporation, or by a farming corporation whose shareholders were the transferor or members of the family of the transferor; and
- (c) during which no previous disposition of or with respect to the designated land occurred, other than a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 or a disposition exempt from tax by virtue of clause h of section 4.

6. Section 21 of the said Act is amended by adding thereto the ^{s. 21, amended} following subsection:

(5) This section applies only to dispositions of designated ^{Application of section} land occurring prior to the 1st day of March, 1975.

7. Subsection 2 of section 23 of the said Act is amended by ^{s. 23 (2), amended} adding thereto the following clause:

(m) reducing the percentages or any of them mentioned in clause d or g of section 4 or in subsection 1 of section 20, or prescribing rules or formulae for determining the reduction in any percentage so mentioned that may be made without losing the benefit of the exemption or reduction described in clause d or g of section 4 or in section 20.

8.—(1) This Act, except subsections 7, 15 and 16 of section 1, ^{Commencement} and sections 2 and 4, comes into force on the day it receives Royal Assent.

(2) Subsections 7, 15 and 16 of section 1 and sections 2 and 4 ^{Idem} shall be deemed to have come into force on the 9th day of April, 1974.

9. This Act may be cited as *The Land Speculation Tax Amendment Act, 1974.* ^{Short title}

BILL 125

An Act to amend The Land Speculation Tax Act, 1974

1st Reading

October 25th, 1974

2nd Reading

3rd Reading

THE HON. A. K. MEEN
Minister of Revenue

(*Government Bill*)

~~BILL 125~~

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

~~Legislative Assembly~~

An Act to amend
The Land Speculation Tax Act, 1974

THE HON. A. K. MEEN
Minister of Revenue



(Reprinted as amended by the Administration of Justice Committee)

TORONTO

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EXPLANATORY NOTES

SECTION 1.—Subsection 1. The amendment is consequential on the addition of two new sub-subclauses.

Subsection 2. The re-enactment of sub-subclause B eliminates the reference to devolutions by will or on intestacy and gives an acquisition cost of fair market value to all persons taking designated land as the result of a death.

The addition of sub-subclause BA deals with persons disposing of designated land acquired through a trust, and gives them an acquisition cost equal to the fair market value of the land when it was transferred into the trust.

The addition of sub-subclause BB establishes the acquisition cost of a lessee disposing of his lease or subleasing portions of land that he has leased. The acquisition cost will only be applicable when the sale of the leased land or the subleasing of it is, itself, a disposition.

BILL 125**1974**

**An Act to amend
The Land Speculation Tax Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Sub-subclause A of subclause i of clause *a* of sub-^{s.1(1)(a)}
section 1 of section 1 of *The Land Speculation Tax Act*,^{(i)(A), amended}
1974, being chapter 17, is amended by inserting after
“B” in the second line “BA, BB.”.
- (2) Sub-subclause B of subclause i of clause *a* of sub-^{s.1(1)(a)}
section 1 of the said section 1 is repealed and the^{(i)(B), re-enacted}
following substituted therefor:
 - (B) as the result of a disposition described
in subclause iv of clause *d* occurring on
the death of a person dying after the
9th day of April, 1974, the fair market
value of the designated land at the
death of such person,
 - (BA) as the result of the creation of a trust
of which the transferor was or became
a beneficiary, or as the result of the
distribution of the designated land to
the transferor under the terms of a
trust of which the transferor was, at
the time of such distribution, a bene-
ficiary, the fair market value of the
designated land at the time it first
became subject to the trust if it first
became subject to the trust after the
9th day of April, 1974, or where the
designated land first became subject
to the trust on or prior to that date,
the fair market value of the designated
land on that date, and the existence
with respect to the designated land of

any limited beneficial interest, whether for the life of some person or otherwise, that affected the designated land after the creation of the trust shall not be taken into account to reduce the fair market value of the designated land for the purposes of this sub-subclause,

(BB) as the result of a disposition to him the proceeds of which were required to be determined in accordance with sub-clause iv of clause *l*, an amount equal to the proceeds of disposition so determined or to the proportion thereof that is reasonably attributable to the designated land with respect to which a lease or similar arrangement is being entered into by the transferor or with respect to which rights under any lease or similar arrangement are being sold, assigned or transferred by the transferor in circumstances that constitute a disposition by him within the meaning of subclause iii of clause *d*.

s. 1(1)(a)
(i)(C),
amended

(3) Sub-subclause C of subclause i of clause *a* of subsection 1 of the said section 1 is amended by adding at the commencement thereof "subject to sub-subclauses B, BA, BB and D,".

s. 1(1)(a)
(i)(D),
re-enacted

(4) Sub-subclause D of subclause i of clause *a* of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(D) as the result of a disposition exempt from tax by virtue of clause *h* of section 4, the fair market value applicable to the designated land on the earliest day of the period determined under sub-clause v during which compound interest may be calculated in accordance with that subclause by the transferor making the disposition to the calculation of the adjusted value of which that subclause is applicable.

s. 1(1)(a)(ii),
amended

(5) Subclause ii of clause *a* of subsection 1 of the said section 1 is amended by adding at the end thereof "or the cost to the transferor of its acquisition, whichever is the higher amount,".

Subsection 3. The words added at the beginning of sub-subclause C make it clear that the special rules for establishing the acquisition cost of designated land provided for in other sub-subclauses of subclause i take priority over the rules for establishing acquisition cost set out in sub-subclause C.

Subsection 4. This amendment clarifies the acquisition cost applicable on a disposition of farming land exempt by section 4(h) of the Act. The determination of this acquisition cost will become relevant only when a disposition of the farming land is made that is not exempt under that clause. Such non-exempt dispositions will be those resulting from death and those in which the farming land is sold outside the family. In the first case, the effect of the amendment made to section 1 (1) (a) (i) (B) is that the land will be acquired at its fair market value at the date of death. In the second case, the transferor making the non-exempt disposition outside the family will be entitled to add compound interest, and the amendment to sub-subclause D provides that the compound interest will be based on the market value of the farming land at the beginning of the period during which compound interest can be calculated.

Subsection 5. This amendment provides that, where land acquired before April 9, 1974 is being disposed of, the transferor may use the higher of the fair market value of the designated land on that date or its actual cost of acquisition to him prior to that date. A person holding land at April 9, 1974 will not, therefore, be penalized by the fact that the land may have fallen in value between the date when he acquired it and April 9, 1974.

Subsection 6. The words added by this amendment allow the addition to farming land of costs of improvement made during the period when compound interest could be calculated with respect to a disposition of the farming land outside the family. For dispositions within the family, no calculations of adjusted value are required, since the dispositions will be exempt, and dispositions resulting from death will automatically take into account any value added to the land by improvements prior to death, since the person taking on death will take the land at its fair market value at death.

Subsection 7. The re-enactment of subclause iv makes two changes to the addition to adjusted value of net maintenance costs. The first change is that these costs may be averaged over the period of time the designated land was owned by the transferor subject to a limit of 10 per cent per annum of the acquisition cost of the designated land. The second change is that, in the case of a disposition of farming land, net maintenance costs may be added for the whole of the period during which compound interest can be added by the transferor under section 1 (1)(a)(v). This period will correspond to the time that the land was held by the family after April 9, 1974 or to the time at which the land was last revalued at market value as the result of the death of a person.

The addition of subclause *iv(a)* will allow all costs of disposition to be added to the adjusted value on any disposition of designated land.

- (6) Subclause iii of clause *a* of subsection 1 of the said section 1 is amended by adding at the end thereof "and, <sup>s.1(1)(a)
(iii),
amended</sup> in the case of a transferor making a disposition of designated land used in farming that is neither a disposition within the meaning of subclause iv of clause *d* nor a disposition exempt from tax by virtue of clause *h* of section 4, the cost of improvements made to the designated land since the earliest day of the period determined under subclause v during which compound interest may be calculated in accordance with that subclause by the transferor and up to the earliest date that an improvement was made to the designated land by the transferor the cost of which is included by virtue of this subclause in computing adjusted value,".
- (7) Subclause iv of clause *a* of subsection 1 of the said section 1 is repealed and the following substituted therefor:
- (iv) for that period that is not the shorter of,
 - (A) the period of time commencing on the 9th day of April, 1974 or the date upon which the designated land was acquired by the transferor, whichever is the later date, and during which the transferor owned the designated land, or
 - (B) the period of time commencing on the earliest day of the period determined under subclause v during which compound interest may be calculated in accordance with that subclause by the transferor and ending on the day of the disposition by the transferor,
- the lesser of either,
- (C) five-sixths of 1 per cent times the number of full months in the period determined to be applicable under either sub-subclause A or B times the amount determined under either sub-clause i or ii, whichever is applicable, or
 - (D) the total net maintenance costs incurred with respect to the designated land during the period determined to be applicable under either sub-sub-clause A or B,

 (iv) the reasonable costs incurred by the transferor in connection with the acquisition of or the disposing of the designated land, but not including taxes however imposed that are payable as a result of the disposition or any costs of acquisition that have been included by virtue of any other provision of this Act, and 

s. 1 (1) (a) (v),
re-enacted

(8) Subclause v of clause a of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(v) in the case of a disposition of designated land used in farming that is neither a disposition within the meaning of subclause iv of clause d nor a disposition exempt from tax by virtue of clause h of section 4, an amount equal to compound interest at the rate of 10 per cent per annum calculated with annual rests upon the amount determined under subclause i or ii, whichever is applicable to the transferor, for the number of years in the period of time preceding the disposition and commencing on the 9th day of April, 1974 or the date of the occurrence of any disposition of such designated land within the meaning of subclause iv of clause d or the date of the occurrence of any disposition of such designated land that was not exempt from tax by virtue of clause h of section 4, whichever is the later date, throughout which farming was carried on on such designated land by the transferor or by any previous owner of such designated land or by a shareholder or member of the family of the transferor or such previous owner.

s. 1 (1) (d) (iii),
amended

(9) Subclause iii of clause d of subsection 1 of the said section 1 is amended by striking out "ten" in the fifth line and inserting in lieu thereof "fifty" and by adding at the end thereof "if at the time of the sale, assignment or transfer of such rights, the term remaining under such lease or arrangement, including any renewals or extensions thereof, may exceed fifty years".

Subsection 8. The re-enactment of subclause v clarifies the period for which a transferor disposing of farming land outside the family is entitled to add compound interest to the acquisition cost of the land. The period for which compound interest can be added is that period preceding the disposition and going back no further than the latest to occur of:

- (a) April 9, 1974,
- (b) the death of any person from whom the land devolved, or
- (c) the acquisition of the land through a disposition that was not exempt under section 4 (h), i.e., from a person outside the family.

Together with the amendment made to section 1 (1)(a)(i)(B), this amendment ensures that compound interest can be claimed throughout the period that farming was carried on by the family and in which no write-up of the market value of the land occurred as the result of death. During the period in which compound interest may be claimed, compound interest can only be added for the years during that period that farming was actually carried on on the designated land by the family operating the farm.

Subsection 9. The amendments made here provide that only leases over 50 years will constitute dispositions of designated land, and the sale or transfer of such a lease will only be a disposition where the remaining term exceeds 50 years.

Subsection 10. The amendment excludes from dispositions by the issue of shares those dispositions that have the effect only of proportionally increasing the number of voting shares held by each shareholder of a corporation. The intent is that, where the ratio of share ownership is not altered by an allotment and issue of shares, no disposition will result. The amendment also provides that certain transfers of shares on death are not dispositions to which the Act applies.

Subsection 11. The addition of clause *ea* adds to the Act a more comprehensive definition of "farming assets" than is contained in the present Act.



(10) Subclause vi of clause *d* of subsection 1 of the said <sup>s.1(1),
(d),(vi),</sup> section 1 is repealed and the following substituted ^{re-enacted} therefor:

(vi) the sale or transfer in any manner of the beneficial interest in, or the allotment and issue (other than an allotment and issue of shares made to the holders of all shares to which are attached rights to vote ordinarily exercisable at meetings of the shareholders of the corporation and issued in proportion to their ownership of such shares determined immediately prior to such allotment and issue) of, shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are shares in the capital stock of a corporation 50 per cent or more of the assets of which consist of designated land, but this subclause does not apply to any transfer of the beneficial interest in such shares that occurs by reason of the death of the owner of them and that is not provided for by an agreement enforceable against the corporation that issued such shares or enforceable by or against the person legally or beneficially entitled to such shares immediately following the death of the owner of them, or

(11) Subsection 1 of the said section 1 is amended by adding <sup>s.1(1),
amended</sup> thereto the following clause:

(ea) "farming assets" of a farming corporation means,

- (i) cash, trade accounts receivable, supplies and inventory of commodities or things produced, raised or grown through farming carried on by the farming corporation of which they are assets,
- (ii) land, buildings, equipment, machinery and live stock that are used chiefly in the operation of the farm by the farming corporation,

(iii) any right or licence granted or issued under any Act of the Legislature that permits or regulates the production or sale of any commodity or thing produced, raised or grown through farming, and

(iv) the building in which a shareholder of the farming corporation or a member or members of his family reside who is or are engaged in the operation of the farm if that building is on land that is used, or that is contiguous to land that is used, by that shareholder or member or members of his family in the operation of the farm.

s. 1(1)(f),
re-enacted

(12) Clause *f* of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(*f*) “farming corporation” means a corporation,

(i) each share of which that confers on the holder thereof the right to vote is, at the date of any disposition with respect to which the expression is being applied, owned by one individual ordinarily resident in Canada, by an individual ordinarily resident in Canada who is a member of the family of every other shareholder of the corporation, or by an individual ordinarily resident in Canada of whose family every other shareholder of the corporation is a member ordinarily resident in Canada,

(ii) 95 per cent of the assets of which are farming assets, and

(iii) which carries on farming in Ontario.

s. 1(1)(l),
amended

(13) Clause *l* of subsection 1 of the said section 1 is amended,

(a) by striking out “or” at the end of subclause ii;

(b) by adding “or” at the end of subclause iii;

(c) by adding thereto the following subclause:

(iv) an amount equal to the fair market value of the designated land with respect to which any lease or similar arrangement has been entered into, or with respect to which the

Subsection 12. The definition of “farming corporation” is expanded to clarify the family relationship required to exist among the shareholders of the corporation and the fact that the corporation must carry on farming in Ontario.

Subsection 13. The changes made in clause *l* are consequential on changes made in earlier provisions of the Act. The addition of subclause iv provides that, on a disposition of designated land by entering into a lease or by selling the rights under a lease, the proceeds of disposition will be the fair market value of the underlying land. In view of earlier amendments, this valuation will only apply to leases of more than 50 years. Clause *l* is also amended to provide that no proceeds of disposition arise on any disposition resulting from death, and the reference to devolutions by will or on intestacy is removed.



Subsection 14. The repeal of subsection 6 is consequential on the new provisions of the Act contained in section 7 of the Bill.



Subsection 15. The present subsection 8 of the Act is no longer necessary because of changes made to section 1 (1) (a) (iv) of the Act dealing with the addition of net maintenance costs to adjusted value.



Subsection 16. The changes made in the re-enactment of subsection 9 of section 1 of the Act are consequential on the repeal of subsection 8 of section 1 of the Act and on the amendments made to section 4(h) of the Act. The addition of subsections 10 and 11 provides rules for determining whether 50 per cent of the assets of a corporation or other organization consist of designated land. Generally, where an organization or corporation controls corporations that own designated land, that designated land will be counted in the assets of the controlling corporation or organization, but if the value of such land is already partly reflected in the value of shares of a subsidiary corporation owned by the controlling corporation, that value will be deleted so that the value of the designated land owned by a controlled corporation is not reflected twice in the assets of the controlling corporation. The sale or transfer of shares of the controlling corporation will be a disposition of all the designated land controlled by the corporation, and provision is made that *bona fide* purchasers and mortgagees dealing with land of a controlled corporation, where a disposition of the shares of the controlling corporation has occurred, will take such land free from any lien conferred by the Act.

The addition of subsection 12 provides that where the disposition of rights under a lease requires the valuation of the designated land subject to the lease at its fair market value, the transferor may determine his cost of acquisition on the basis of the fair market value of that designated land at the time it was leased to him.



rights under any lease or similar arrangement that have been sold, assigned or transferred are exercisable, where the entering into such lease or similar arrangement or the sale, assignment or transfer of rights thereunder is a disposition within the meaning of sub-clause iii of clause d,

and

- (d) by striking out “under the last will and testament of any person or on the intestacy of any person” in the thirty-ninth and fortieth lines and inserting in lieu thereof “described in subclause iv of clause d”.



(14) Subsection 6 of the said section 1 is repealed.



s. 1(6),
repealed

(15) Subsection 8 of the said section 1 is repealed.

s. 1(8),
repealed



(16) Subsection 9 of the said section 1 is repealed and the s. 1(9),
following substituted therefor: re-enacted

(9) For the purpose of subsection 11 and of clause a, l Application of Act to certain dispositions or o of subsection 1, where, after the 9th day of April, 1974, a disposition that is not exempt from tax by virtue of clause h of section 4 and that is a disposition described in subclause v, vi or vii of clause d of subsection 1 occurs of or with respect to designated land, the person or persons who is or are immediately prior to the occurrence of such disposition beneficially interested in the designated land with respect to which such disposition has occurred shall be deemed to have disposed of it for proceeds of disposition equal to the amount of the fair market value of the designated land at the time of such disposition, and the person or persons who is or are immediately following the occurrence of such disposition beneficially interested in the designated land with respect to which such disposition has occurred shall be deemed to have acquired or reacquired the designated land for an amount equal to the amount of its fair market value at the time of such disposition, and for the purpose of determining the adjusted value of the designated land on the occurrence of the next subsequent disposition of the designated land that is not a disposition exempt from tax by virtue of clause h of section 4, sub-clauses iii, iv and, where applicable, v of clause a of subsection 1 apply only to the period ending at the time of the next subsequent disposition of the designated land that is not

exempt from tax by virtue of clause *h* of section 4 and commencing at the time when the transferor making such next subsequent disposition was last deemed to have acquired or reacquired the designated land pursuant to this subsection.

Determining assets consisting of designated land

(10) In determining, for the purposes of this Act or the regulations, whether 50 per cent or more of the assets of any organization, syndicate, association of persons, partnership, joint venture or corporation with or without share capital (which organization, syndicate, association of persons, partnership, joint venture or corporation with or without share capital is hereafter in this subsection referred to as the "disposing person") consist of designated land, the following rules apply,

- (a) assets consisting of designated land shall be deemed to include all designated land to the extent that it is beneficially owned by a corporation that is in fact directly or indirectly controlled by the disposing person;
- (b) where the assets of the disposing person (other than designated land owned by, or deemed by this subsection to be included in the assets of, the disposing person) derive all or part of their value from the value of designated land that is deemed by this subsection to be included in the disposing person's assets, there shall be deducted from the fair market value of those assets the value of which is so derived any amount reasonably attributable to the designated land deemed by this subsection to be included in the assets of the disposing person; and
- (c) the percentage of the assets of the disposing person consisting of designated land shall be determined on the basis of the fair market value of all assets owned by, or deemed by this subsection to be included in the assets of, the disposing person and after making any deduction required to be made by clause *b*.

Disposition deemed to occur

(11) Where a disposition described in subclause v, vi or vii of clause *d* of subsection 1 occurs, it is deemed to be a disposition of or with respect to any designated land that is, at the occurrence of the first-mentioned disposition, deemed by subsection 10 to be included in the assets of an organization, syndicate, association of persons, partnership, joint venture or corporation with or without share

SECTION 2.—Subsection 1. The amendment provides that interest is not to be calculated until the transaction of which the disposition is a part has been completed or until 90 days after the occurrence of the disposition, whichever is later.

Subsection 2. This provision provides that no tax is payable where, although a disposition may technically have taken place, the sale or transfer is never completed.

capital to the extent of the beneficial interest in such designated land that is deemed by subsection 10 to be included in such assets, and for the purposes of this Act or the regulations, such designated land shall be deemed to have been disposed of by a disposition described in sub-clause v, vi or vii, as the case may be, of clause d of subsection 1, but any purchaser or mortgagee of such designated land who acquires it for value or lends money on the security thereof, in good faith and without notice of the occurrence of a disposition deemed by this subsection to have occurred shall hold the designated land free from, and there shall not attach to such designated land, the special lien conferred by section 5 for the amount of any tax imposed by this Act as a result of a disposition deemed by this subsection to have occurred prior to the acquisition of such designated land by such purchaser or the taking of security thereon by such mortgagee.

(12) Where rights under any lease or similar arrangement are being sold, assigned or transferred in circumstances that constitute a disposition within the meaning of subclause iii of clause d of subsection 1 and where the proceeds of such disposition are required to be determined in accordance with subclause iv of clause l of subsection 1, the transferor making such disposition may, in lieu of the amount required by sub-subclause A, B, BA or C of subclause i of clause a of subsection 1 or by subclause ii of that clause to be added to the adjusted value applicable to such disposition, add an amount equal to the fair market value of the designated land with respect to which the rights under the lease or similar arrangement that are being sold, assigned or transferred are exercisable, such fair market value to be ascertained as at the 9th day of April, 1974 or the date on which the transferor acquired such rights, whichever is the later date.

Adjusted
value on
certain
dispositions
of rights
under leases

- 2.—(1) Subsection 3 of section 2 of the said Act is amended <sup>s. 2(3),
amended</sup> by inserting after “interest” in the fourth line “from the later of ninety days after the disposition or the date of completion of the transaction of which the disposition is a part”.
- (2) The said section 2 is amended by adding thereto the <sup>s. 2,
amended</sup> following subsection:

(5) Notwithstanding anything to the contrary in this <sup>No tax on
failure of
disposition</sup> Act, where a disposition of or with respect to designated

land occurs and the transaction, sale or transfer of which the disposition is a part is not completed, and where, following such failure of completion, the transferor who made the disposition is in the same position with respect to the ownership of the designated land as he would have been had the disposition not occurred, no tax is payable with respect to such disposition.

s. 4(b),
amended
repealed

3.—(1) Clause *b* of section 4 of the said Act is amended by adding at the end thereof “by Ontario Hydro or by an authority as defined in *The Conservation Authorities Act*”.

s. 4(c),
repealed

 (2) Clause *c* of section 4 of the said Act is repealed. 

s. 4(e),
amended

 (3) Clause *e* of the said section 4 is amended by striking out “ten” in the eighth line and inserting in lieu thereof “eleven”.

s. 4(h),
re-enacted

 (4) Clause *h* of the said section 4 is repealed and the following substituted therefor:

(*h*) when the designated land,

(i) is disposed of otherwise than by a disposition described in subclause iv of clause *d* of subsection 1 of section 1,

(ii) is, at the time of its disposition, used in farming carried on by the transferor, by an individual ordinarily resident in Canada who is a member of the family of the transferor or by the transferor and any such individual,

(iii) is disposed of,

(A) to an individual ordinarily resident in Canada who is a member of the family of the transferor,

(B) to a corporation that, immediately following the disposition, is a farming corporation each share of which that confers on the holder thereof the right to vote is, at the date of such disposition, owned by the transferor making the disposition or by an individual ordinarily resident in Canada who is a member of the family of such transferor,

SECTION 3.—Subsection 1. This amendment exempts dispositions of designated land to Ontario Hydro and to conservation authorities.

 Subsection 2. The repeal of clause *c* of section 4 is consequential on the new provisions of the Act contained in section 7 of the Bill. 

Subsection 3. The amount of contiguous land exempt on the disposition of a principal residence is raised from ten to eleven acres.

Subsection 4. The amendments made here provide that dispositions resulting from death are not exempt from tax by virtue of section 4 (*h*), and a further amendment clarifies that dispositions by a farming corporation to its shareholders will be exempt from tax. Dispositions resulting from death are excluded from this exemption because they give rise to an automatic increase in the value of the designated land to its market value at the date of death, and because no proceeds of disposition arise on a disposition resulting from death. The amendment is consistent with those made earlier in the Bill with relation to dispositions of farming land.

Subsection 5. This amendment is consequential on the addition of clause *k* to section 4.

Subsection 6. This amendment exempts dispositions made by conservation authorities.

Subsection 7. This amendment adds clause *k* to section 4 of the Act. Clause *k* deals with the disposition of land that has been subdivided and serviced to the stage where building permits will be issued with respect to the land. Where building permits are not required, the exemption will be available when the land has been serviced in accordance with any requirements imposed under *The Planning Act*. This amendment is intended to replace section 21 of the present Act. The addition of clause *l* exempts dispositions of land in unorganized territory if the land is not located in a restricted area designated under *The Public Lands Act* for which permits are required to improve or build upon the land.

- (C) by a disposition described in subclause vi of clause d of subsection 1 of section 1 that is the result of the sale or transfer in any manner of the beneficial interest in, or is the result of the allotment and issue of, shares in a farming corporation to an individual ordinarily resident in Canada who is a member of the family of every other shareholder of the farming corporation immediately prior to the sale, transfer or allotment and issue of such shares, or
 - (D) to a shareholder of a transferor that is a farming corporation, and
- (iv) is disposed of for the purpose of enabling the person to whom the disposition is made to carry on farming on the designated land, or is disposed of with the intention that a farming corporation the shares of which are sold, transferred or allotted and issued as described in sub-subclause C of subclause iii will continue to carry on farming on the designated land.
- (5) Clause i of the said section 4 is amended by striking <sup>s. 4(i),
amended</sup> out "or" in the fourth line.
- (6) Clause j of the said section 4 is amended by inserting <sup>s. 4(j),
amended</sup> after "Act," in the third line "an authority as defined in *The Conservation Authorities Act*."
- (7) The said section 4 is amended by adding thereto the <sup>s. 4,
amended</sup> following clauses:
- (k) when the designated land at the time of its disposition, as defined in this clause,
 - (i) has not previously been disposed of by a disposition for which exemption was claimed under this clause or under section 21,
 -  (ii) is included in a registered plan of subdivision, is the subject-matter of a consent obtained under section 29 of *The Planning Act*, or is owned by the transferor and immediately abuts on designated land that was owned by the transferor and that was the subject-matter of such a consent, and

(iii) has, at the expense of the transferor, been,

- (A) in the case where an agreement enforceable against the transferor has been entered into pursuant to clause d of subsection 5 of section 33 of *The Planning Act*, wholly or partly serviced for the purpose of complying with requirements for servicing contained in such agreement,
- (B) in the case where the designated land disposed of is the subject of a consent obtained under section 29 of *The Planning Act*, wholly or partly serviced for the purpose of complying with any conditions respecting the servicing of the designated land that are imposed pursuant to subsection 12 of section 29 of that Act, or
- (C) in the case where an agreement in writing enforceable against the transferor has been entered into with the municipality within which the designated land disposed of is situated, wholly or partly serviced for the purpose of complying with requirements for servicing contained in such agreement, and
- (D) in all cases, wholly or partly serviced to the extent that construction of a building on the designated land disposed of could lawfully be commenced and, where applicable, to the further extent that a permit authorized by a by-law passed pursuant to subsection 1 of section 38 of *The Planning Act* by the municipality within which the designated land disposed of is situated, or a permit authorized by section 17 of *The Public Lands Act*, would be available,

R.S.O. 1970,
cc. 349, 380

and for the purpose of determining the time at which a transferor making a disposition described in this clause is first entitled to the exemption conferred by this clause, the expression "time of its disposition" means

SECTION 4. This amendment clarifies the application of the use of the affidavit of exemption which will enable the purchaser of designated land to take it free from the lien imposed by the Act. The affidavit of exemption may now be used in any circumstances where tax is not imposed by section 2 (1) of the Act.

SECTION 5. The investment property reduction is expanded. The requirement that the property must be held until April 9, 1977 has been removed, and the period for which a reduction may be claimed is enlarged to include the time when the property was used as an investment property or a principal residence by the transferor or a predecessor in interest from whom the property was acquired on death or through an eligible disposition. In addition, the reduction may be claimed for years earlier than April 9, 1974 if the property otherwise qualified for the reduction during those years.

The addition of subsection 3 provides a similar reduction for farm property so that, where farm property has been retained and farmed in the family for ten years, it can be disposed of exempt from tax. The ten year period includes years earlier than April 9, 1974.

the time when the person to whom the disposition is made is first entitled to call for delivery to him of a conveyance or transfer of the designated land disposed of or of some other document or evidence of title the agreement to give which was a disposition of the designated land, and no disposition of designated land that is exempt from tax by virtue of this clause shall be deemed to have occurred, for the purposes of this Act, until the time of its disposition, as defined in this clause; or

- (l) when the designated land disposed of is situated in territory without municipal organization that is not designated as a restricted area pursuant to section 17 of *The Public Lands Act*.

R.S.O. 1970,
c. 380

4. Subsection 3 of section 5 of the said Act is amended by <sup>s. 5(3),
amended</sup> striking out "in order to recognize or give effect to the disposition, it is necessary to register" in the first, second and third lines and inserting in lieu thereof "as a result of the disposition, there is registered" and by striking out "described in a clause and, where applicable, a subclause (which clause and subclause shall be expressly named in the affidavit) of section 4 of this Act" in the fourteenth, fifteenth and sixteenth lines and inserting in lieu thereof "not liable to the tax imposed by subsection 1 of section 2 by virtue of a provision of this Act or the regulations (which provision shall be expressly named in the affidavit)".

5. Subsection 2 of section 20 of the said Act is repealed and the <sup>s. 20(2),
re-enacted</sup> following substituted therefor:

(2) Where designated land that is an investment property <sup>Investment
property
reduction</sup> is disposed of, the taxable value, computed as if this section was not applicable, of the investment property disposed of shall be reduced by an amount equal to one-tenth thereof for each full twelve-month period up to a maximum of ten such periods that is comprised in an uninterrupted period of time,

(a) that commenced prior to, and ended on, the day on which the disposition occurs;

 (b) during which no previous disposition of or with respect to the designated land occurred, other than a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 or a dis-

position that is an eligible disposition within the meaning of section 22a; and

- (c) throughout the whole of which the designated land was an investment property or the principal residence of the transferor or of a person who disposed of the designated land within such uninterrupted period by a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 or by a disposition that is an eligible disposition within the meaning of section 22a.

Farm
property
reduction

(3) Where designated land that is used in farming is disposed of and the disposition is neither a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 nor a disposition exempt from tax by virtue of clause h of section 4, the taxable value, computed as if this section was not applicable, of the designated land disposed of shall be reduced by an amount equal to one-tenth thereof for each full twelve-month period up to a maximum of ten such periods that is comprised in an uninterrupted period of time,

- (a) that commenced prior to, and ended on, the day on which the disposition occurs;
- (b) throughout the whole of which farming was carried on on the designated land by the transferor, by a person or persons who was or were members of the family of the transferor or, where the transferor is a farming corporation, was or were shareholders of that corporation, or by a farming corporation whose shareholders were the transferor or members of the family of the transferor; and
- (c) during which no previous disposition of or with respect to the designated land occurred, other than a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 or a disposition exempt from tax by virtue of clause h of section 4.

s. 21,
amended

6. Section 21 of the said Act is amended by adding thereto the following subsection:

Application
of section

(5) This section applies only to dispositions of designated land occurring prior to the 1st day of April, 1975.

ss. 22a-22c,
enacted

7. The said Act is further amended by adding thereto the following sections:

SECTION 6. This amendment provides that section 21 of the Act will cease to be in force on April 1, 1975.

SECTION 7. Section 22a provides for roll-overs on dispositions between members of a family, from a settlor to a family trust, from an individual to a corporation in exchange for its shares, and for dispositions among subsidiary corporations controlled by the same company. Where such dispositions occur, the adjusted value of the transferor will be continued by the transferee, and no tax will result until the transferee disposes of the designated land in a taxable manner.

22a.—(1) In this section,

Interpre-
tion

“eligible disposition” means a disposition that is not exempt from tax by virtue of section 4, that is not a disposition described in subclause iv of clause d of subsection 1 of section 1, and that is a disposition that is the result of a transaction, arrangement or event whereby the beneficial interest in property of any kind is transferred or extinguished or whereby the control over the use of designated land or the proceeds of its disposition is changed, provided that such transfer or extinguishment of beneficial interest or such change of control is,

- (a) from an individual to a member or members of his family;
- (b) from an individual to a corporation all of the issued shares of which are, immediately following the disposition, beneficially owned by such individual or by a member or members of his family;
- (c) from an individual to the trustees of a trust (other than a trust created by will) under the terms of which the income and corpus of the trust can be beneficially enjoyed or possessed by, or are vested in, only such individual or a member or members of his family, and no other person contingently interested under the terms of the trust can become entitled to the enjoyment or possession of, or to a vested interest in, the income or corpus of the trust except as the result of the death of the individual or a member or members of his family having a prior beneficial interest in such income or corpus;
- (d) from individuals disposing of designated land, including designated land held by them as partnership property, that is owned by them as tenants in common or as joint tenants when the disposition is to a corporation in consideration for the allotment and issue to each such individual of shares of the corporation having a fair market value that is,
 - (i) where the designated land was owned immediately prior to the disposition as partnership property or in tenancy in common, not less than the fair market value of the individual’s interest in the designated land immediately prior to the disposition, or
 - (ii) subject to subclause i, where the designated land was owned immediately prior to the

disposition in joint tenancy, not less than the amount that is in the same ratio to the total fair market value of the designated land so disposed of as the number one is to the number of such individuals who owned the designated land immediately prior to the disposition,

and provided that all of the issued shares of such corporation are, immediately following the disposition, owned only by the individuals who disposed of the designated land;

- (e) from a corporation to its shareholders as part of the winding-up or dissolution of the corporation; or
- (f) between or among any of the corporations related to each other in the following manner,
 - (i) the corporation owning all of the issued shares, except directors' qualifying shares, of a corporation described in subclause ii,
 - (ii) a corporation all of the issued shares of which, except directors' qualifying shares, are owned by the corporation described in subclause i,
 - (iii) a corporation all of the issued shares of which, except directors' qualifying shares, are owned by a corporation all of the issued shares of which, except directors' qualifying shares, are owned by the corporation described in subclause i, or
 - (iv) a corporation all of the issued shares of which, except directors' qualifying shares, are owned by one or more of the corporations that are related to each other in the manner described in subclause i, ii or iii.

(2) For the purposes only of determining the tax imposed by subsection 1 of section 2 and notwithstanding any provision of this Act or the regulations to the contrary, where an eligible disposition occurs of or with respect to designated land, the proceeds of such eligible disposition shall be that amount that is equal to the adjusted value therefor computed in accordance with section 1 and without reference to any other valuation required to be made by subsection

Adjusted
value and
proceeds
of disposi-
tion on
eligible
disposition



Section 22b deals with testamentary trusts and provides alternate dates of valuation where deaths occur between the setting up of the trust and the disposition of designated land held under the trust or received as a distribution from the trust to a beneficiary of the trust.



9 of that section, and the person or persons who is or are immediately following the occurrence of such eligible disposition beneficially interested in the designated land with respect to which such eligible disposition has occurred shall, for the purposes of a subsequent disposition thereof compute the adjusted value on such subsequent disposition in accordance with the following rules,

- (a) the cost of acquisition of the designated land shall be its cost of acquisition used in computing the adjusted value on the immediately preceding disposition if that disposition was an eligible disposition to which this section applied;
- (b) there may be added to the amount determined under clause *a* all amounts included by virtue of this clause or subclause *iii*, *iv* or *iva* of clause *a* of subsection 1 of section 1 in the computation of the adjusted value of the immediately preceding disposition if that disposition was an eligible disposition to which this section applied; and
- (c) there may be added to the aggregate of the amounts determined under clauses *a* and *b* any amounts that the transferor making such subsequent disposition is entitled to include by virtue of subclause *iii*, *iv* or *iva* of clause *a* of subsection 1 of section 1 in computing the adjusted value of such subsequent disposition.

22b. Notwithstanding any provision of this Act or the regulations to the contrary, where designated land that is being disposed of is, immediately prior to its disposition, held upon the terms of a trust created by the last will and testament of the person who therein devised such designated land, or where designated land being disposed of was acquired by the transferor making the disposition as the result of a distribution of the designated land to him under the terms of a trust created by the last will and testament of the person who therein devised the designated land or by the last will and testament of a beneficiary of a trust so created who had a vested interest in the designated land capable of being devised or bequeathed by him, the person disposing of such designated land so held or acquired may, in computing its adjusted value on such disposition, include as his cost of acquisition of such designated land the higher of either,

- (a) its fair market value on the date of death of the person by whose last will and testament such trust

was created or its fair market value on the 9th day of April, 1974, whichever is the later date; or

- (b) its fair market value on the date of death, or other termination of the interest, of the last beneficiary under such trust to die, or to cease to have an interest therein, prior to the disposition and who was entitled under such trust to a vested interest in the designated land or to have the designated land held for his use and enjoyment or to have all or part of the income from such designated land held for, or paid to, him.

Additions
to
adjusted
value of
trust
property

22c. Where designated land being disposed of is held in trust, or where the transferor disposing of designated land acquired it as the result of the distribution of the designated land to him under the terms of a trust of which he was, at the time of such distribution, a beneficiary, there may be included in computing the adjusted value of the disposition,

- (a) the cost of improvements to the designated land made after the date as of which the acquisition cost of the designated land is required to be determined in computing the adjusted value of the disposition, provided that there shall not be included by virtue of this clause the cost of any improvement made prior to the 9th day of April, 1974 or the cost of any improvement that the transferor is entitled to include by virtue of subclause iii of clause *a* of subsection 1 of section 1 in computing the adjusted value of the disposition; and
- (b) net maintenance costs that have not been included by virtue of subclause iv of clause *a* of subsection 1 of section 1 in computing the adjusted value of the disposition, but such net maintenance costs may be included only to the extent that the amount thereof does not exceed the product of five-sixths of 1 per cent times the amount of the acquisition cost of the designated land included in computing the adjusted value of the disposition times the number of full months in the period commencing on the date as of which such acquisition cost is required to be determined and ending on the day (not later than the date on which the disposition occurs) immediately preceding the day on which the transferor making the disposition was first entitled under subclause iv of clause *a* of subsection 1 of section 1 to include net maintenance costs in computing the adjusted value of the disposition.



Section 22c makes it clear that, in the case of trust property, costs of improvements and net maintenance costs that may not be provided for under other provisions of the Act, may be taken into account in computing the adjusted value of the designated land on any disposition of it while it is held in trust or by a beneficiary to whom the designated land was distributed pursuant to the terms of the trust.



SECTION 8. The amendment authorizes the Lieutenant Governor in Council to make regulations for establishing formulae to reduce the percentages in relation to improvements, renovations and the investment property reduction required under the Act.

8. Subsection 2 of section 23 of the said Act is amended by ^{s. 23(2),} ^{amended} adding thereto the following clause:

(m) reducing the percentages or any of them mentioned in clause *d* or *g* of section 4 or in subsection 1 of section 20, or prescribing rules or formulae for determining the reduction in any percentage so mentioned that may be made without losing the benefit of the exemption or reduction described in clause *d* or *g* of section 4 or in section 20.

9.—(1) This Act, except subsections 7 and 15 of section 1, ^{Commencement} and sections 2 and 4, comes into force on the day it receives Royal Assent.

(2) Subsections 7 and 15 of section 1 and sections 2 and 4^{Idem} shall be deemed to have come into force on the 9th day of April, 1974.

10. This Act may be cited as *The Land Speculation Tax Amendment Act, 1974.* ^{Short title}

An Act to amend
The Land Speculation Tax Act, 1974

1st Reading

October 25th, 1974

2nd Reading

December 6th, 1974

3rd Reading

THE HON. A. K. MEEN
Minister of Revenue

(Reprinted as amended by the
Administration of Justice Committee)

CAZON
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Ontario Legislative Assembly

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An Act to amend
The Land Speculation Tax Act, 1974



THE HON. A. K. MEEN
Minister of Revenue

TORONTO

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BILL 125**1974**

**An Act to amend
The Land Speculation Tax Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Sub-subclause A of subclause i of clause *a* of sub-^{s.1(1)(a)}
section 1 of section 1 of *The Land Speculation Tax Act, amended*
1974, being chapter 17, is amended by inserting after
“B” in the second line “BA, BB.”.
- (2) Sub-subclause B of subclause i of clause *a* of sub-^{s.1(1)(a)}
section 1 of the said section 1 is repealed and the^{re-enacted}
following substituted therefor:
 - (B) as the result of a disposition described
in subclause iv of clause *d* occurring on
the death of a person dying after the
9th day of April, 1974, the fair market
value of the designated land at the
death of such person,
 - (BA) as the result of the creation of a trust
of which the transferor was or became
a beneficiary, or as the result of the
distribution of the designated land to
the transferor under the terms of a
trust of which the transferor was, at
the time of such distribution, a bene-
ficiary, the fair market value of the
designated land at the time it first
became subject to the trust if it first
became subject to the trust after the
9th day of April, 1974, or where the
designated land first became subject
to the trust on or prior to that date,
the fair market value of the designated
land on that date, and the existence
with respect to the designated land of

any limited beneficial interest, whether for the life of some person or otherwise, that affected the designated land after the creation of the trust shall not be taken into account to reduce the fair market value of the designated land for the purposes of this sub-subclause,

(BB) as the result of a disposition to him the proceeds of which were required to be determined in accordance with sub-clause iv of clause *l*, an amount equal to the proceeds of disposition so determined or to the proportion thereof that is reasonably attributable to the designated land with respect to which a lease or similar arrangement is being entered into by the transferor or with respect to which rights under any lease or similar arrangement are being sold, assigned or transferred by the transferor in circumstances that constitute a disposition by him within the meaning of subclause iii of clause *d*.

s. 1(1)(a)
(i)(C),
amended

(3) Sub-subclause C of subclause i of clause *a* of subsection 1 of the said section 1 is amended by adding at the commencement thereof "subject to sub-subclauses B, BA, BB and D,".

s. 1(1)(a)
(i)(D),
re-enacted

(4) Sub-subclause D of subclause i of clause *a* of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(D) as the result of a disposition exempt from tax by virtue of clause *h* of section 4, the fair market value applicable to the designated land on the earliest day of the period determined under sub-clause v during which compound interest may be calculated in accordance with that subclause by the transferor making the disposition to the calculation of the adjusted value of which that subclause is applicable.

s. 1(1)(a)(ii),
amended

(5) Subclause ii of clause *a* of subsection 1 of the said section 1 is amended by adding at the end thereof "or the cost to the transferor of its acquisition, whichever is the higher amount,".

(6) Subclause iii of clause *a* of subsection 1 of the said section 1 is amended by adding at the end thereof "and, in the case of a transferor making a disposition of designated land used in farming that is neither a disposition within the meaning of subclause iv of clause *d* nor a disposition exempt from tax by virtue of clause *h* of section 4, the cost of improvements made to the designated land since the earliest day of the period determined under subclause v during which compound interest may be calculated in accordance with that subclause by the transferor and up to the earliest date that an improvement was made to the designated land by the transferor the cost of which is included by virtue of this subclause in computing adjusted value,".

(7) Subclause iv of clause *a* of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(iv) for that period that is not the shorter of,

(A) the period of time commencing on the 9th day of April, 1974 or the date upon which the designated land was acquired by the transferor, whichever is the later date, and during which the transferor owned the designated land, or

(B) the period of time commencing on the earliest day of the period determined under subclause v during which compound interest may be calculated in accordance with that subclause by the transferor and ending on the day of the disposition by the transferor,

the lesser of either,

(C) five-sixths of 1 per cent times the number of full months in the period determined to be applicable under either sub-subclause A or B times the amount determined under either subclause i or ii, whichever is applicable, or

(D) the total net maintenance costs incurred with respect to the designated land during the period determined to be applicable under either sub-subclause A or B,

(iv a) the reasonable costs incurred by the transferor in connection with the acquisition of or the disposing of the designated land, but not including taxes however imposed that are payable as a result of the disposition or any costs of acquisition that have been included by virtue of any other provision of this Act, and

s. 1 (1) (a) (v),
re-enacted

(8) Subclause v of clause a of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(v) in the case of a disposition of designated land used in farming that is neither a disposition within the meaning of subclause iv of clause d nor a disposition exempt from tax by virtue of clause h of section 4, an amount equal to compound interest at the rate of 10 per cent per annum calculated with annual rests upon the amount determined under subclause i or ii, whichever is applicable to the transferor, for the number of years in the period of time preceding the disposition and commencing on the 9th day of April, 1974 or the date of the occurrence of any disposition of such designated land within the meaning of subclause iv of clause d or the date of the occurrence of any disposition of such designated land that was not exempt from tax by virtue of clause h of section 4, whichever is the later date, throughout which farming was carried on on such designated land by the transferor or by any previous owner of such designated land or by a shareholder or member of the family of the transferor or such previous owner.

s. 1 (1) (d) (iii),
amended

(9) Subclause iii of clause d of subsection 1 of the said section 1 is amended by striking out "ten" in the fifth line and inserting in lieu thereof "fifty" and by adding at the end thereof "if at the time of the sale, assignment or transfer of such rights, the term remaining under such lease or arrangement, including any renewals or extensions thereof, may exceed fifty years."

(10) Subclause vi of clause *d* of subsection 1 of the said section 1 is repealed and the following substituted <sup>s.1(1),
(d),(vi),</sup> re-enacted therefor:

(vi) the sale or transfer in any manner of the beneficial interest in, or the allotment and issue (other than an allotment and issue of shares made to the holders of all shares to which are attached rights to vote ordinarily exercisable at meetings of the shareholders of the corporation and issued in proportion to their ownership of such shares determined immediately prior to such allotment and issue) of, shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are shares in the capital stock of a corporation 50 per cent or more of the assets of which consist of designated land, but this subclause does not apply to any transfer of the beneficial interest in such shares that occurs by reason of the death of the owner of them and that is not provided for by an agreement enforceable against the corporation that issued such shares or enforceable by or against the person legally or beneficially entitled to such shares immediately following the death of the owner of them, or

(11) Subsection 1 of the said section 1 is amended by adding <sup>s.1(1),
amended</sup> thereto the following clause:

(ea) “farming assets” of a farming corporation means,

- (i) cash, trade accounts receivable, supplies and inventory of commodities or things produced, raised or grown through farming carried on by the farming corporation of which they are assets,
- (ii) land, buildings, equipment, machinery and live stock that are used chiefly in the operation of the farm by the farming corporation,

- (iii) any right or licence granted or issued under any Act of the Legislature that permits or regulates the production or sale of any commodity or thing produced, raised or grown through farming, and
- (iv) the building in which a shareholder of the farming corporation or a member or members of his family reside who is or are engaged in the operation of the farm if that building is on land that is used, or that is contiguous to land that is used, by that shareholder or member or members of his family in the operation of the farm.

s. 1(1)(f),
re-enacted

- (12) Clause *f* of subsection 1 of the said section 1 is repealed and the following substituted therefor:

- (*f*) “farming corporation” means a corporation,
 - (i) each share of which that confers on the holder thereof the right to vote is, at the date of any disposition with respect to which the expression is being applied, owned by one individual ordinarily resident in Canada, by an individual ordinarily resident in Canada who is a member of the family of every other shareholder of the corporation, or by an individual ordinarily resident in Canada of whose family every other shareholder of the corporation is a member ordinarily resident in Canada,
 - (ii) 95 per cent of the assets of which are farming assets, and
 - (iii) which carries on farming in Ontario.

s. 1(1)(l),
amended

- (13) Clause *l* of subsection 1 of the said section 1 is amended,

- (a) by striking out “or” at the end of subclause ii;
- (b) by adding “or” at the end of subclause iii;
- (c) by adding thereto the following subclause:
- (iv) an amount equal to the fair market value of the designated land with respect to which any lease or similar arrangement has been entered into, or with respect to which the

rights under any lease or similar arrangement that have been sold, assigned or transferred are exercisable, where the entering into such lease or similar arrangement or the sale, assignment or transfer of rights thereunder is a disposition within the meaning of sub-clause iii of clause d,

and

(d) by striking out "under the last will and testament of any person or on the intestacy of any person" in the thirty-ninth and fortieth lines and inserting in lieu thereof "described in subclause iv of clause d".

(14) Subsection 6 of the said section 1 is repealed.

s. 1 (6),
repealed

(15) Subsection 8 of the said section 1 is repealed.

s. 1 (8),
repealed

(16) Subsection 9 of the said section 1 is repealed and the following substituted therefor:

(9) For the purpose of subsection 11 and of clause a, l Application of Act to certain dispositions or o of subsection 1, where, after the 9th day of April, 1974, a disposition that is not exempt from tax by virtue of clause h of section 4 and that is a disposition described in subclause v, vi or vii of clause d of subsection 1 occurs of or with respect to designated land, the person or persons who is or are immediately prior to the occurrence of such disposition beneficially interested in the designated land with respect to which such disposition has occurred shall be deemed to have disposed of it for proceeds of disposition equal to the amount of the fair market value of the designated land at the time of such disposition, and the person or persons who is or are immediately following the occurrence of such disposition beneficially interested in the designated land with respect to which such disposition has occurred shall be deemed to have acquired or reacquired the designated land for an amount equal to the amount of its fair market value at the time of such disposition, and for the purpose of determining the adjusted value of the designated land on the occurrence of the next subsequent disposition of the designated land that is not a disposition exempt from tax by virtue of clause h of section 4, sub-clauses iii, iv and, where applicable, v of clause a of subsection 1 apply only to the period ending at the time of the next subsequent disposition of the designated land that is not

exempt from tax by virtue of clause *h* of section 4 and commencing at the time when the transferor making such next subsequent disposition was last deemed to have acquired or reacquired the designated land pursuant to this subsection.

Determining assets consisting of designated land

(10) In determining, for the purposes of this Act or the regulations, whether 50 per cent or more of the assets of any organization, syndicate, association of persons, partnership, joint venture or corporation with or without share capital (which organization, syndicate, association of persons, partnership, joint venture or corporation with or without share capital is hereafter in this subsection referred to as the "disposing person") consist of designated land, the following rules apply,

- (a) assets consisting of designated land shall be deemed to include all designated land to the extent that it is beneficially owned by a corporation that is in fact directly or indirectly controlled by the disposing person;
- (b) where the assets of the disposing person (other than designated land owned by, or deemed by this subsection to be included in the assets of, the disposing person) derive all or part of their value from the value of designated land that is deemed by this subsection to be included in the disposing person's assets, there shall be deducted from the fair market value of those assets the value of which is so derived any amount reasonably attributable to the designated land deemed by this subsection to be included in the assets of the disposing person; and
- (c) the percentage of the assets of the disposing person consisting of designated land shall be determined on the basis of the fair market value of all assets owned by, or deemed by this subsection to be included in the assets of, the disposing person and after making any deduction required to be made by clause *b*.

Disposition deemed to occur

(11) Where a disposition described in subclause v, vi or vii of clause *d* of subsection 1 occurs, it is deemed to be a disposition of or with respect to any designated land that is, at the occurrence of the first-mentioned disposition, deemed by subsection 10 to be included in the assets of an organization, syndicate, association of persons, partnership, joint venture or corporation with or without share

capital to the extent of the beneficial interest in such designated land that is deemed by subsection 10 to be included in such assets, and for the purposes of this Act or the regulations, such designated land shall be deemed to have been disposed of by a disposition described in sub-clause v, vi or vii, as the case may be, of clause d of subsection 1, but any purchaser or mortgagee of such designated land who acquires it for value or lends money on the security thereof, in good faith and without notice of the occurrence of a disposition deemed by this subsection to have occurred shall hold the designated land free from, and there shall not attach to such designated land, the special lien conferred by section 5 for the amount of any tax imposed by this Act as a result of a disposition deemed by this subsection to have occurred prior to the acquisition of such designated land by such purchaser or the taking of security thereon by such mortgagee.

(12) Where rights under any lease or similar arrangement are being sold, assigned or transferred in circumstances that constitute a disposition within the meaning of subclause iii of clause d of subsection 1 and where the proceeds of such disposition are required to be determined in accordance with subclause iv of clause l of subsection 1, the transferor making such disposition may, in lieu of the amount required by sub-subclause A, B, BA or C of subclause i of clause a of subsection 1 or by subclause ii of that clause to be added to the adjusted value applicable to such disposition, add an amount equal to the fair market value of the designated land with respect to which the rights under the lease or similar arrangement that are being sold, assigned or transferred are exercisable, such fair market value to be ascertained as at the 9th day of April, 1974 or the date on which the transferor acquired such rights, whichever is the later date.

Adjusted
value on
certain
dispositions
of rights
under leases

- 2.—(1)** Subsection 3 of section 2 of the said Act is amended <sup>s. 2 (3),
amended</sup> by inserting after “interest” in the fourth line “from the later of ninety days after the disposition or the date of completion of the transaction of which the disposition is a part”.
- (2)** The said section 2 is amended by adding thereto the <sup>s. 2,
amended</sup> following subsection:

(5) Notwithstanding anything to the contrary in this <sup>No tax on
failure of</sup> Act, where a disposition of or with respect to designated ^{disposition}

land occurs and the transaction, sale or transfer of which the disposition is a part is not completed, and where, following such failure of completion, the transferor who made the disposition is in the same position with respect to the ownership of the designated land as he would have been had the disposition not occurred, no tax is payable with respect to such disposition.

s. 4(b),
amended

3.—(1) Clause *b* of section 4 of the said Act is amended by adding at the end thereof “by Ontario Hydro or by an authority as defined in *The Conservation Authorities Act*”.

s. 4(c),
repealed

(2) Clause *c* of section 4 of the said Act is repealed.

s. 4(e),
amended

(3) Clause *e* of the said section 4 is amended by striking out “ten” in the eighth line and inserting in lieu thereof “eleven”.

s. 4(h),
re-enacted

(4) Clause *h* of the said section 4 is repealed and the following substituted therefor:

(*h*) when the designated land,

(i) is disposed of otherwise than by a disposition described in subclause iv of clause *d* of subsection 1 of section 1,

(ii) is, at the time of its disposition, used in farming carried on by the transferor, by an individual ordinarily resident in Canada who is a member of the family of the transferor or by the transferor and any such individual,

(iii) is disposed of,

(A) to an individual ordinarily resident in Canada who is a member of the family of the transferor,

(B) to a corporation that, immediately following the disposition, is a farming corporation each share of which that confers on the holder thereof the right to vote is, at the date of such disposition, owned by the transferor making the disposition or by an individual ordinarily resident in Canada who is a member of the family of such transferor,

- (C) by a disposition described in subclause vi of clause d of subsection 1 of section 1 that is the result of the sale or transfer in any manner of the beneficial interest in, or is the result of the allotment and issue of, shares in a farming corporation to an individual ordinarily resident in Canada who is a member of the family of every other shareholder of the farming corporation immediately prior to the sale, transfer or allotment and issue of such shares, or
 - (D) to a shareholder of a transferor that is a farming corporation, and
 - (iv) is disposed of for the purpose of enabling the person to whom the disposition is made to carry on farming on the designated land, or is disposed of with the intention that a farming corporation the shares of which are sold, transferred or allotted and issued as described in sub-subclause C of subclause iii will continue to carry on farming on the designated land.
- (5) Clause i of the said section 4 is amended by striking <sup>s.4(i),
amended</sup> out "or" in the fourth line.
- (6) Clause j of the said section 4 is amended by inserting <sup>s.4(j),
amended</sup> after "Act," in the third line "an authority as defined in *The Conservation Authorities Act*."
- (7) The said section 4 is amended by adding thereto the <sup>s.4,
amended</sup> following clauses:
- (k) when the designated land at the time of its disposition, as defined in this clause,
 - (i) has not previously been disposed of by a disposition for which exemption was claimed under this clause or under section 21,
 - (ii) is included in a registered plan of subdivision, is the subject-matter of a consent obtained under section 29 of *The Planning Act*, or is owned by the transferor and immediately abuts on designated land that was owned by the transferor and that was the subject-matter of such a consent, and

(iii) has, at the expense of the transferor, been,

- (A) in the case where an agreement enforceable against the transferor has been entered into pursuant to clause d of subsection 5 of section 33 of *The Planning Act*, wholly or partly serviced for the purpose of complying with requirements for servicing contained in such agreement,
- (B) in the case where the designated land disposed of is the subject of a consent obtained under section 29 of *The Planning Act*, wholly or partly serviced for the purpose of complying with any conditions respecting the servicing of the designated land that are imposed pursuant to subsection 12 of section 29 of that Act, or
- (C) in the case where an agreement in writing enforceable against the transferor has been entered into with the municipality within which the designated land disposed of is situated, wholly or partly serviced for the purpose of complying with requirements for servicing contained in such agreement, and
- (D) in all cases, wholly or partly serviced to the extent that construction of a building on the designated land disposed of could lawfully be commenced and, where applicable, to the further extent that a permit authorized by a by-law passed pursuant to subsection 1 of section 38 of *The Planning Act* by the municipality within which the designated land disposed of is situated, or a permit authorized by section 17 of *The Public Lands Act*, would be available,

and for the purpose of determining the time at which a transferor making a disposition described in this clause is first entitled to the exemption conferred by this clause, the expression "time of its disposition" means

the time when the person to whom the disposition is made is first entitled to call for delivery to him of a conveyance or transfer of the designated land disposed of or of some other document or evidence of title the agreement to give which was a disposition of the designated land, and no disposition of designated land that is exempt from tax by virtue of this clause shall be deemed to have occurred, for the purposes of this Act, until the time of its disposition, as defined in this clause; or

- (l) when the designated land disposed of is situated in territory without municipal organization that is not designated as a restricted area pursuant to section 17 of *The Public Lands Act*.

R.S.O. 1970,
c. 380

4. Subsection 3 of section 5 of the said Act is amended by <sup>s. 5 (3),
amended</sup> striking out "in order to recognize or give effect to the disposition, it is necessary to register" in the first, second and third lines and inserting in lieu thereof "as a result of the disposition, there is registered" and by striking out "described in a clause and, where applicable, a subclause (which clause and subclause shall be expressly named in the affidavit) of section 4 of this Act" in the fourteenth, fifteenth and sixteenth lines and inserting in lieu thereof "not liable to the tax imposed by subsection 1 of section 2 by virtue of a provision of this Act or the regulations (which provision shall be expressly named in the affidavit)".
5. Subsection 2 of section 20 of the said Act is repealed and the <sup>s. 20 (2),
re-enacted</sup> following substituted therefor:

(2) Where designated land that is an investment property <sup>Investment
property
reduction</sup> is disposed of, the taxable value, computed as if this section was not applicable, of the investment property disposed of shall be reduced by an amount equal to one-tenth thereof for each full twelve-month period up to a maximum of ten such periods that is comprised in an uninterrupted period of time,

- (a) that commenced prior to, and ended on, the day on which the disposition occurs;
- (b) during which no previous disposition of or with respect to the designated land occurred, other than a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 or a dis-

position that is an eligible disposition within the meaning of section 22a; and

- (c) throughout the whole of which the designated land was an investment property or the principal residence of the transferor or of a person who disposed of the designated land within such uninterrupted period by a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 or by a disposition that is an eligible disposition within the meaning of section 22a.

Farm
property
reduction

(3) Where designated land that is used in farming is disposed of and the disposition is neither a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 nor a disposition exempt from tax by virtue of clause h of section 4, the taxable value, computed as if this section was not applicable, of the designated land disposed of shall be reduced by an amount equal to one-tenth thereof for each full twelve-month period up to a maximum of ten such periods that is comprised in an uninterrupted period of time,

- (a) that commenced prior to, and ended on, the day on which the disposition occurs;
- (b) throughout the whole of which farming was carried on on the designated land by the transferor, by a person or persons who was or were members of the family of the transferor or, where the transferor is a farming corporation, was or were shareholders of that corporation, or by a farming corporation whose shareholders were the transferor or members of the family of the transferor; and
- (c) during which no previous disposition of or with respect to the designated land occurred, other than a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 or a disposition exempt from tax by virtue of clause h of section 4.

s. 21,
amended

6. Section 21 of the said Act is amended by adding thereto the following subsection:

Application
of section

(5) This section applies only to dispositions of designated land occurring prior to the 1st day of April, 1975.

ss. 22a-22c.
enacted

7. The said Act is further amended by adding thereto the following sections:

22a.—(1) In this section,

Interpre-
tation

“eligible disposition” means a disposition that is not exempt from tax by virtue of section 4, that is not a disposition described in subclause iv of clause d of subsection 1 of section 1, and that is a disposition that is the result of a transaction, arrangement or event whereby the beneficial interest in property of any kind is transferred or extinguished or whereby the control over the use of designated land or the proceeds of its disposition is changed, provided that such transfer or extinguishment of beneficial interest or such change of control is,

- (a) from an individual to a member or members of his family;
- (b) from an individual to a corporation all of the issued shares of which are, immediately following the disposition, beneficially owned by such individual or by a member or members of his family;
- (c) from an individual to the trustees of a trust (other than a trust created by will) under the terms of which the income and corpus of the trust can be beneficially enjoyed or possessed by, or are vested in, only such individual or a member or members of his family, and no other person contingently interested under the terms of the trust can become entitled to the enjoyment or possession of, or to a vested interest in, the income or corpus of the trust except as the result of the death of the individual or a member or members of his family having a prior beneficial interest in such income or corpus;
- (d) from individuals disposing of designated land, including designated land held by them as partnership property, that is owned by them as tenants in common or as joint tenants when the disposition is to a corporation in consideration for the allotment and issue to each such individual of shares of the corporation having a fair market value that is,
 - (i) where the designated land was owned immediately prior to the disposition as partnership property or in tenancy in common, not less than the fair market value of the individual’s interest in the designated land immediately prior to the disposition, or
 - (ii) subject to subclause i, where the designated land was owned immediately prior to the

disposition in joint tenancy, not less than the amount that is in the same ratio to the total fair market value of the designated land so disposed of as the number one is to the number of such individuals who owned the designated land immediately prior to the disposition,

and provided that all of the issued shares of such corporation are, immediately following the disposition, owned only by the individuals who disposed of the designated land;

- (e) from a corporation to its shareholders as part of the winding-up or dissolution of the corporation; or
- (f) between or among any of the corporations related to each other in the following manner,
 - (i) the corporation owning all of the issued shares, except directors' qualifying shares, of a corporation described in subclause ii,
 - (ii) a corporation all of the issued shares of which, except directors' qualifying shares, are owned by the corporation described in subclause i,
 - (iii) a corporation all of the issued shares of which, except directors' qualifying shares, are owned by a corporation all of the issued shares of which, except directors' qualifying shares, are owned by the corporation described in subclause i, or
 - (iv) a corporation all of the issued shares of which, except directors' qualifying shares, are owned by one or more of the corporations that are related to each other in the manner described in subclause i, ii or iii.

**Adjusted
value and
proceeds
of disposi-
tion on
eligible
disposition**

(2) For the purposes only of determining the tax imposed by subsection 1 of section 2 and notwithstanding any provision of this Act or the regulations to the contrary, where an eligible disposition occurs of or with respect to designated land, the proceeds of such eligible disposition shall be that amount that is equal to the adjusted value therefor computed in accordance with section 1 and without reference to any other valuation required to be made by subsection

9 of that section, and the person or persons who is or are immediately following the occurrence of such eligible disposition beneficially interested in the designated land with respect to which such eligible disposition has occurred shall, for the purposes of a subsequent disposition thereof compute the adjusted value on such subsequent disposition in accordance with the following rules,

- (a) the cost of acquisition of the designated land shall be its cost of acquisition used in computing the adjusted value on the immediately preceding disposition if that disposition was an eligible disposition to which this section applied;
- (b) there may be added to the amount determined under clause *a* all amounts included by virtue of this clause or subclause *iii*, *iv* or *iva* of clause *a* of subsection 1 of section 1 in the computation of the adjusted value of the immediately preceding disposition if that disposition was an eligible disposition to which this section applied; and
- (c) there may be added to the aggregate of the amounts determined under clauses *a* and *b* any amounts that the transferor making such subsequent disposition is entitled to include by virtue of subclause *iii*, *iv* or *iva* of clause *a* of subsection 1 of section 1 in computing the adjusted value of such subsequent disposition.

22b. Notwithstanding any provision of this Act or the ^{Testamentary}_{trusts} regulations to the contrary, where designated land that is being disposed of is, immediately prior to its disposition, held upon the terms of a trust created by the last will and testament of the person who therein devised such designated land, or where designated land being disposed of was acquired by the transferor making the disposition as the result of a distribution of the designated land to him under the terms of a trust created by the last will and testament of the person who therein devised the designated land or by the last will and testament of a beneficiary of a trust so created who had a vested interest in the designated land capable of being devised or bequeathed by him, the person disposing of such designated land so held or acquired may, in computing its adjusted value on such disposition, include as his cost of acquisition of such designated land the higher of either,

- (a) its fair market value on the date of death of the person by whose last will and testament such trust

was created or its fair market value on the 9th day of April, 1974, whichever is the later date; or

- (b) its fair market value on the date of death, or other termination of the interest, of the last beneficiary under such trust to die, or to cease to have an interest therein, prior to the disposition and who was entitled under such trust to a vested interest in the designated land or to have the designated land held for his use and enjoyment or to have all or part of the income from such designated land held for, or paid to, him.

Additions
to
adjusted
value of
trust
property

22c. Where designated land being disposed of is held in trust, or where the transferor disposing of designated land acquired it as the result of the distribution of the designated land to him under the terms of a trust of which he was, at the time of such distribution, a beneficiary, there may be included in computing the adjusted value of the disposition,

- (a) the cost of improvements to the designated land made after the date as of which the acquisition cost of the designated land is required to be determined in computing the adjusted value of the disposition, provided that there shall not be included by virtue of this clause the cost of any improvement made prior to the 9th day of April, 1974 or the cost of any improvement that the transferor is entitled to include by virtue of subclause iii of clause *a* of subsection 1 of section 1 in computing the adjusted value of the disposition; and
- (b) net maintenance costs that have not been included by virtue of subclause iv of clause *a* of subsection 1 of section 1 in computing the adjusted value of the disposition, but such net maintenance costs may be included only to the extent that the amount thereof does not exceed the product of five-sixths of 1 per cent times the amount of the acquisition cost of the designated land included in computing the adjusted value of the disposition times the number of full months in the period commencing on the date as of which such acquisition cost is required to be determined and ending on the day (not later than the date on which the disposition occurs) immediately preceding the day on which the transferor making the disposition was first entitled under subclause iv of clause *a* of subsection 1 of section 1 to include net maintenance costs in computing the adjusted value of the disposition.

8. Subsection 2 of section 23 of the said Act is amended by <sup>s. 23(2),
amended</sup> adding thereto the following clause:

(m) reducing the percentages or any of them mentioned in clause *d* or *g* of section 4 or in subsection 1 of section 20, or prescribing rules or formulae for determining the reduction in any percentage so mentioned that may be made without losing the benefit of the exemption or reduction described in clause *d* or *g* of section 4 or in section 20.

9.—(1) This Act, except subsections 7 and 15 of section 1,^{Commencement} and sections 2 and 4, comes into force on the day it receives Royal Assent.

(2) Subsections 7 and 15 of section 1 and sections 2 and 4^{Idem} shall be deemed to have come into force on the 9th day of April, 1974.

10. This Act may be cited as *The Land Speculation Tax Amendment Act, 1974*.^{Short title}

BILL 125

An Act to amend
The Land Speculation Tax Act, 1974

1st Reading

October 25th, 1974

2nd Reading

December 6th, 1974

3rd Reading

February 3rd, 1975

THE HON. A. K. MEEN
Minister of Revenue

CAZON

XB

-B 56

BILL 126

Private Member's Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend
The Moosonee Development Area Board Act

MR. DEACON



EXPLANATORY NOTE

The Bill provides for the election of members to the Board by means of a general election rather than by designation by the Lieutenant Governor in Council.

BILL 126**1974**

**An Act to amend
The Moosonee Development Area Board Act**

HIER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 2 of section 2 of *The Moosonee Development Area Board Act*, being chapter 277 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(2) The Board shall consist of five members elected by a general vote of electors in the Development Area, such members to assume the offices of chairman, vice-chairman and members according to the number of votes received at that election.

(2a) The provisions of *The Municipal Elections Act, 1972* apply to an election under this Act.

(2) Subsection 4 of the said section 2 is repealed and the following substituted therefor:

(4) Where a vacancy occurs on the Board through death, resignation or otherwise, the vacancy shall be filled by a general vote of electors in the Development Area.

- 2.** This Act comes into force on the day it receives Royal Assent. Commencement
- 3.** This Act may be cited as *The Moosonee Development Area Board Amendment Act, 1974*. Short title

BILL 126

An Act to amend
The Moosonee Development
Area Board Act

1st Reading

October 25th, 1974

2nd Reading

3rd Reading

MR. DEACON

(*Private Member's Bill*)

CA20N
XB
-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Government
Publications

An Act to amend The Election Act

MR. REID



TORONTO

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EXPLANATORY NOTE

The Bill limits the amount that may be contributed to an election campaign and provides for disclosure where the amount is greater than \$500 or where services for longer than one week have been provided.

BILL 127

1974

An Act to amend The Election Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Election Act*, being chapter 142 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following sections:

158a. Except for a candidate, no person or corporation shall contribute money or its equivalent or services in an amount greater than \$1,000 to the provincial election campaign of any candidate or party.

161a.—(1) Where the amount or equivalent value of a contribution to a provincial election campaign of any candidate or party is greater than \$500, the person or corporation making the contribution shall, within three months after the election, submit a detailed and itemized report of such contribution to the Chief Election Officer.

(2) Where a person or corporation provides services for consideration to a candidate or party for a provincial election campaign for a period of one week or longer, the person or corporation providing the service shall, within three months after the election, submit a detailed and itemized report of the services provided to the Chief Election Officer.

2. This Act comes into force on the day it receives Royal Assent.
3. This Act may be cited as *The Election Amendment Act, 1974*. Short title

An Act to amend
The Election Act

1st Reading

November 1st, 1974

2nd Reading

3rd Reading

MR. REID

(*Private Member's Bill*)

CA20N

XB

-B 56

BILL 128

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Government
Publications

An Act to amend The Income Tax Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

This Bill extends to 1975 the rate of personal income tax for Ontario residents that first became applicable in 1972. Amendments are also proposed to increase the property tax credit, the pensioner tax credit, the maximum aggregate deduction for tax credits, and the percentage of taxable income required to be deducted from the aggregate amount of tax credits.

New subsections are added by this Bill that will prevent a double claim for tax credits where, because of the provisions of the Federal Income Tax Act, two taxation years end in the same calendar year, and that will permit an individual to claim within four years any deduction that he was entitled to claim but for some reason failed to claim.

SECTION 1. The amendment provides that the rate of personal income tax for Ontario residents will remain at 30.5 per cent for the 1975 taxation year.

SECTION 2.—Subsection 1 of this section of the Bill makes four changes in the tax credits to which an Ontario resident is entitled:

- A. The maximum of tax credits that can be claimed in a taxation year is increased from \$400 to \$500.
- B. The reduction of an individual's tax credits by 1 per cent of his taxable income in the taxation year is being increased to 2 per cent of taxable income.
- C. The amount of occupancy cost that can be claimed in computing an individual's property tax credit is raised to the sum of 10 per cent of his occupancy cost plus the lesser of the actual amount of his occupancy cost or \$180.
- D. The pensioner tax credit is increased from \$100 to \$110.

These changes will apply to the 1974 taxation year, and were proposed in the Treasurer's Budget Speech last spring.

Subsection 2 amends section 6b of the Act because of the addition of subsection 10 to that section.

Subsection 3 adds subsections 10 and 11 to section 6b of the Act. The new subsection 10 deals with the situation where, under the *Income Tax Act* (Canada), an individual may have two taxation years ending in the same calendar year (in which case he may claim tax credits only for the first taxation year), or where his legal representatives may be entitled to file a separate income return for certain kinds of income in a taxation year for which the usual return has also been filed (in which case the tax credits must be claimed on the usual return). Where, because of bankruptcy, an individual has more than one taxation year in the same calendar year, he will be entitled to use his occupancy cost for the full calendar year in determining his property tax credit for the taxation year ending prior to his bankruptcy. The new subsection 11 allows an individual to claim within four years of a taxation year any deduction to which he was entitled in that taxation year and which he failed to claim.

BILL 128**1974**

An Act to amend The Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *h* of subsection 3 of section 3 of *The Income Tax Act*, ^{s. 3 (3) (h),} re-enacted being chapter 217 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1973, chapter 153, section 1, is repealed and the following substituted therefor:
 - (*h*) 30.5 per cent in respect of the 1972, 1973, 1974 and 1975 taxation years.
- 2.—(1) Subsection 2 of section 6*b* of the said Act, as re-enacted ^{s. 6b (2),} ~~amended~~ by the Statutes of Ontario, 1973, chapter 153, section 2, is amended,
 - (*a*) by striking out “\$400” in the fourth line and inserting in lieu thereof “\$500”;
 - (*b*) by striking out “1 per cent” in the sixth line and inserting in lieu thereof “2 per cent”;
 - (*c*) by striking out “\$90” in the eleventh line and inserting in lieu thereof “\$180”; and
 - (*d*) by striking out “\$100” in the thirty-fourth line and inserting in lieu thereof “\$110”.
- (2) Subsection 4 of the said section 6*b*, as re-enacted by the ^{s. 6b (4),} ~~amended~~ Statutes of Ontario, 1972, chapter 146, section 2, is amended by adding at the commencement thereof “Subject to subsection 10.”.
- (3) The said section 6*b* is amended by adding thereto the ^{s. 6b,} ~~amended~~ following subsections:
 - (10) For the purposes of this section,

Where no
deduction
may be made

(a) where an individual or someone on his behalf is entitled to file returns under the Federal Act in respect of the individual's income for more than one taxation year ending in the same calendar year, the deduction to which the individual may be entitled under subsection 2 may be claimed only with respect to that taxation year that ends first after the commencement of that calendar year;

(b) no deduction under subsection 2 may be claimed in a return,

(i) filed pursuant to an election made under the provisions of subsection 2 of section 70 of the Federal Act, or

(ii) filed on behalf of an individual by a trustee in bankruptcy pursuant to the provisions of paragraph *e* or *h* of subsection 2 of section 128 of the Federal Act;

and

(c) notwithstanding clause *a*, where an individual is entitled to file returns under the Federal Act in respect of more than one taxation year ending in the same calendar year, and where the taxation year that ends first after the commencement of that calendar year ends on the day immediately before the day on which the individual became a bankrupt within the meaning of the *Bankruptcy Act* (Canada), the individual may, in computing the amount of the tax credit described in clause *a* of subsection 2, determine his occupancy cost to be the amount that would be his occupancy cost for the whole of that calendar year excluding any portion of that occupancy cost so determined that has been taken into account by the spouse of that individual in computing the amount of the tax credit described in clause *a* of subsection 2 for that calendar year.

R.S.C. 1970,
c. B-3

Limitation
on unclaimed
deductions

(11) Where it is established to the Minister's satisfaction that, in respect of a particular taxation year, an individual was entitled to a deduction under subsection 2 exceeding the amount of the deduction allowed to him under subsection 2 for that taxation year, the amount of such excess (hereinafter called the "additional deduction") may be deducted from the individual's tax otherwise payable under this Act that is payable at the time of or next after the

establishing of the amount of the additional deduction, and if the amount of the additional deduction, together with the amount of any deduction under subsection 2 to which the individual is then entitled, exceeds the tax otherwise payable under this Act by the individual at the time of or next after the establishing of the amount of the additional deduction, the amount of such excess shall be paid to the individual by the Treasurer in accordance with subsection 5, provided that no claim to establish an additional deduction may be made after four years from the day of mailing of a notice of assessment of tax payable under this Act for the particular taxation year with respect to which the additional deduction is sought to be established or from the day of mailing of a notice that no tax under this Act is payable for such particular taxation year.

- 3.**—(1) This Act, except section 2, comes into force on the day it ^{Commencement} receives Royal Assent.
- (2) Section 2 shall be deemed to have come into force on ^{Idem} the 1st day of January, 1974 and applies to the 1974 and subsequent taxation years.
- 4.** This Act may be cited as *The Income Tax Amendment Act, 1974.* ^{Short title}

An Act to amend
The Income Tax Act

1st Reading

November 5th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

CAZON

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-B 56

BILL 128

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Income Tax Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 128**1974**

An Act to amend The Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *h* of subsection 3 of section 3 of *The Income Tax Act*, <sup>s.3(3)(h),
re-enacted</sup> being chapter 217 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1973, chapter 153, section 1, is repealed and the following substituted therefor:

(*h*) 30.5 per cent in respect of the 1972, 1973, 1974 and 1975 taxation years.

- 2.—(1) Subsection 2 of section 6*b* of the said Act, as re-enacted <sup>s.6b(2),
amended</sup> by the Statutes of Ontario, 1973, chapter 153, section 2, is amended,

(*a*) by striking out “\$400” in the fourth line and inserting in lieu thereof “\$500”;

(*b*) by striking out “1 per cent” in the sixth line and inserting in lieu thereof “2 per cent”;

(*c*) by striking out “\$90” in the eleventh line and inserting in lieu thereof “\$180”; and

(*d*) by striking out “\$100” in the thirty-fourth line and inserting in lieu thereof “\$110”.

- (2) Subsection 4 of the said section 6*b*, as re-enacted by the <sup>s.6b(4),
amended</sup> Statutes of Ontario, 1972, chapter 146, section 2, is amended by adding at the commencement thereof “Subject to subsection 10.”.

- (3) The said section 6*b* is amended by adding thereto the <sup>s.6b,
amended</sup> following subsections:

(10) For the purposes of this section,

Where no
deduction
may be made

(a) where an individual or someone on his behalf is entitled to file returns under the Federal Act in respect of the individual's income for more than one taxation year ending in the same calendar year, the deduction to which the individual may be entitled under subsection 2 may be claimed only with respect to that taxation year that ends first after the commencement of that calendar year;

(b) no deduction under subsection 2 may be claimed in a return,

(i) filed pursuant to an election made under the provisions of subsection 2 of section 70 of the Federal Act, or

(ii) filed on behalf of an individual by a trustee in bankruptcy pursuant to the provisions of paragraph *e* or *h* of subsection 2 of section 128 of the Federal Act;

and

(c) notwithstanding clause *a*, where an individual is entitled to file returns under the Federal Act in respect of more than one taxation year ending in the same calendar year, and where the taxation year that ends first after the commencement of that calendar year ends on the day immediately before the day on which the individual became a bankrupt within the meaning of the *Bankruptcy Act* (Canada), the individual may, in computing the amount of the tax credit described in clause *a* of subsection 2, determine his occupancy cost to be the amount that would be his occupancy cost for the whole of that calendar year excluding any portion of that occupancy cost so determined that has been taken into account by the spouse of that individual in computing the amount of the tax credit described in clause *a* of subsection 2 for that calendar year.

R.S.C. 1970,
c. B-3

Limitation
on unclaimed
deductions

(11) Where it is established to the Minister's satisfaction that, in respect of a particular taxation year, an individual was entitled to a deduction under subsection 2 exceeding the amount of the deduction allowed to him under subsection 2 for that taxation year, the amount of such excess (hereinafter called the "additional deduction") may be deducted from the individual's tax otherwise payable under this Act that is payable at the time of or next after the

establishing of the amount of the additional deduction, and if the amount of the additional deduction, together with the amount of any deduction under subsection 2 to which the individual is then entitled, exceeds the tax otherwise payable under this Act by the individual at the time of or next after the establishing of the amount of the additional deduction, the amount of such excess shall be paid to the individual by the Treasurer in accordance with subsection 5, provided that no claim to establish an additional deduction may be made after four years from the day of mailing of a notice of assessment of tax payable under this Act for the particular taxation year with respect to which the additional deduction is sought to be established or from the day of mailing of a notice that no tax under this Act is payable for such particular taxation year.

- 3.—**(1) This Act, except section 2, comes into force on the day it receives Royal Assent. ^{Commencement}
- (2) Section 2 shall be deemed to have come into force on ^{Idem} the 1st day of January, 1974 and applies to the 1974 and subsequent taxation years.
- 4.** This Act may be cited as *The Income Tax Amendment Act, 1974.* ^{Short title}

An Act to amend
The Income Tax Act

1st Reading

November 5th, 1974

2nd Reading

December 3rd, 1974

3rd Reading

December 3rd, 1974

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

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BILL 129

Government Bill

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-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Government
Publ.

An Act to amend
The Moosonee Development Area Board Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill increases the number of members of The Moosonee Development Area Board from five to seven and provides that four members of the Board, rather than three, constitute a quorum.

BILL 129**1974**

**An Act to amend
The Moosonee Development Area Board Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.**—(1) Subsection 2 of section 2 of *The Moosonee Development Area Board Act*, being chapter 277 of the Revised Statutes of Ontario, 1970, is amended by striking out “five” in the first line and inserting in lieu thereof “seven”.

(2) Subsection 3 of the said section 2 is amended by striking out “Three” and inserting in lieu thereof “Four”.
- 2.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement
- 3.** This Act may be cited as *The Moosonee Development Area Board Amendment Act, 1974*. Short title

An Act to amend
The Moosonee Development
Area Board Act

1st Reading

November 5th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

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-B 56

BILL 129

Government
Publications

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend
The Moosonee Development Area Board Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 129**1974**

**An Act to amend
The Moosonee Development Area Board Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.**—(1) Subsection 2 of section 2 of *The Moosonee Development Area Board Act*, being chapter 277 of the Revised Statutes of Ontario, 1970, is amended by striking out “five” in the first line and inserting in lieu thereof “seven”.

(2) Subsection 3 of the said section 2 is amended by striking out “Three” and inserting in lieu thereof “Four”.
- 2.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement
- 3.** This Act may be cited as *The Moosonee Development Area Board Amendment Act, 1974*. Short title

BILL 129

An Act to amend
The Moosonee Development
Area Board Act

1st Reading

November 5th, 1974

2nd Reading

November 26th, 1974

3rd Reading

November 28th, 1974

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

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4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Government
Publications

An Act to amend
The Ontario Municipal Improvement Corporation Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The amendment will permit The Ontario Municipal Improvement Corporation to purchase municipal debentures issued for the purpose of constructing or altering stadia. Only municipalities having a population in excess of 100,000 will be eligible, and metropolitan, regional and district municipalities are included.

The purchase of municipal debentures by the Corporation is conditional upon the approval of the Lieutenant Governor in Council and the effective rate of interest at which the Corporation may purchase debentures is determined from time to time by the Lieutenant Governor in Council.

These debentures may be purchased only after the Ontario Municipal Board has approved the issue of the debentures. The debentures of the municipality purchased by the Corporation rank *pari passu* with all other debentures of the municipality.

SECTION 2. Complementary to section 1 of the Bill, in relation to metropolitan, regional and district municipalities.

BILL 130**1974**

**An Act to amend
The Ontario Municipal Improvement
Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 3 of *The Ontario Municipal Improvement Corporation Act*, being chapter 325 of the Revised Statutes of Ontario, 1970, is amended by striking out "and" at the end of clause *a*, by adding "and" at the end of clause *b* and by adding thereto the following clause:

(c) to purchase from any municipality in Ontario, including a metropolitan, regional or district municipality, having a population of 100,000 or more, debentures issued by it for the erection or alteration of stadia.

2. Subsection 1 of section 9 of the said Act is amended by inserting after "Ontario" in the third line "in a category mentioned in section 3".
3. This Act comes into force on the day it receives Royal Assent.
4. This Act may be cited as *The Ontario Municipal Improvement Corporation Amendment Act, 1974*.

An Act to amend
The Ontario Municipal
Improvement Corporation Act

1st Reading

November 5th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

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BILL 130

Government
Publications

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4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Legislative Assembly

An Act to amend
The Ontario Municipal Improvement Corporation Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 130**1974**

**An Act to amend
The Ontario Municipal Improvement
Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 3 of *The Ontario Municipal Improvement Corporation Act*, being chapter 325 of the Revised Statutes of Ontario, 1970, is amended by striking out "and" at the end of clause *a*, by adding "and" at the end of clause *b* and by adding thereto the following clause:
 (c) to purchase from any municipality in Ontario, including a metropolitan, regional or district municipality, having a population of 100,000 or more, debentures issued by it for the erection or alteration of stadia.
2. Subsection 1 of section 9 of the said Act is amended by inserting after "Ontario" in the third line "in a category mentioned in section 3".
3. This Act comes into force on the day it receives Royal Assent.
4. This Act may be cited as *The Ontario Municipal Improvement Corporation Amendment Act, 1974*.
Short title

An Act to amend
The Ontario Municipal
Improvement Corporation Act

1st Reading

November 5th, 1974

2nd Reading

November 26th, 1974

3rd Reading

November 28th, 1974

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

CAZON

BILL 131

Government Bill

X B

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Government
Publications

An Act to repeal
The Ontario Pensioners Assistance Act, 1973

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Act being repealed provides for an annual payment of \$50 to each Ontario resident who is entitled to a monthly guaranteed income supplement under the Canada *Old Age Security Act*.

BILL 131**1974**

**An Act to repeal
The Ontario Pensioners Assistance Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ontario Pensioners Assistance Act, 1973*, being chapter ^{Act repealed} 122, is repealed.
2. This Act shall be deemed to have come into force on the 1st ^{Commencement} day of January, 1974.
3. This Act may be cited as *The Ontario Pensioners Assistance Repeal Act, 1974*. ^{Short title}

BILL 131

An Act to repeal
The Ontario Pensioners
Assistance Act, 1973

1st Reading

November 5th, 1974

2nd Reading

3rd Reading

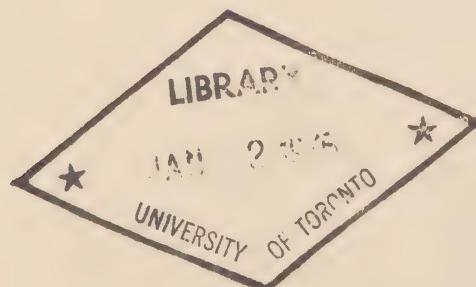
THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to repeal
The Ontario Pensioners Assistance Act, 1973

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



BILL 131**1974**

**An Act to repeal
The Ontario Pensioners Assistance Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** *The Ontario Pensioners Assistance Act, 1973*, being chapter 122, is repealed.
- 2.** This Act shall be deemed to have come into force on the 1st day of January, 1974.
- 3.** This Act may be cited as *The Ontario Pensioners Assistance Repeal Act, 1974*.

BILL 131

An Act to repeal
The Ontario Pensioners
Assistance Act, 1973

1st Reading

November 5th, 1974

2nd Reading

November 28th, 1974

3rd Reading

November 28th, 1974

THE HON. J. WHRE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

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-B 56

~~BILL 132~~

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend
The Ontario Universities Capital Aid Corporation Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The effect of the re-enactment is to add the Ontario College of Art as an institution whose bonds or debentures, issued for capital construction projects, may be purchased by The Ontario Universities Capital Aid Corporation.

SECTIONS 2, 3 AND 4. The re-enactments contained in these three sections are complementary to section 1 of the Bill; in each instance, the Ontario College of Art is added to the other institutions named.

BILL 132**1974**

**An Act to amend
The Ontario Universities
Capital Aid Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *c* of section 2 of *The Ontario Universities Capital Aid Corporation Act*, being chapter 331 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1971, chapter 39, section 1 and amended by 1973, chapter 65, section 2, is repealed and the following substituted therefor:
 - (c) to the Art Gallery of Ontario, The Royal Ontario Museum and the Ontario College of Art; and
2. Clause *c* of section 4 of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 39, section 2 and amended by 1973, chapter 65, section 3, is repealed and the following substituted therefor:
 - (c) to purchase from the Art Gallery of Ontario, The Royal Ontario Museum and the Ontario College of Art bonds or debentures issued by them for capital construction projects that have been approved by the Lieutenant Governor in Council; and
3. Subsection 3 of section 11 of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 39, section 3, is repealed and the following substituted therefor:
 - (3) The Corporation, with the approval of the Lieutenant Governor in Council and subject to the regulations made under this Act, may from time to time purchase from the Art Gallery of Ontario, The Royal Ontario Museum or the Ontario College of Art Purchase of debentures of the Art Gallery of Ontario, The Royal Ontario Museum or the Ontario College of Art

Ontario College of Art, bonds or debentures issued by such institutions for capital construction projects approved by the Lieutenant Governor in Council.

s. 15 (c),
re-enacted

- 4.** Clause *c* of section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 39, section 4 and amended by 1973, chapter 65, section 5, is repealed and the following substituted therefor:

(*c*) the manner in which colleges, universities, municipalities, the Art Gallery of Ontario, The Royal Ontario Museum and the Ontario College of Art may apply to the Corporation for its purchase of their bonds or debentures, and the forms, records and proofs to be furnished with such applications.

Commencement

- 5.** This Act comes into force on the day it receives Royal Assent.

Short title

- 6.** This Act may be cited as *The Ontario Universities Capital Aid Corporation Amendment Act, 1974*.

An Act to amend
The Ontario Universities
Capital Aid Corporation Act

1st Reading

November 7th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

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Ontario. Legislative Assembly

BILL 132

Government
Publications

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

**An Act to amend
The Ontario Universities Capital Aid Corporation Act**

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 132**1974**

**An Act to amend
The Ontario Universities
Capital Aid Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *c* of section 2 of *The Ontario Universities Capital Aid Corporation Act*, being chapter 331 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1971, chapter 39, section 1 and amended by 1973, chapter 65, section 2, is repealed and the following substituted therefor:
 (c) to the Art Gallery of Ontario, The Royal Ontario Museum and the Ontario College of Art; and
2. Clause *c* of section 4 of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 39, section 2 and amended by 1973, chapter 65, section 3, is repealed and the following substituted therefor:
 (c) to purchase from the Art Gallery of Ontario, The Royal Ontario Museum and the Ontario College of Art bonds or debentures issued by them for capital construction projects that have been approved by the Lieutenant Governor in Council; and
3. Subsection 3 of section 11 of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 39, section 3, is repealed and the following substituted therefor:
 (3) The Corporation, with the approval of the Lieutenant Governor in Council and subject to the regulations made under this Act, may from time to time purchase from the Art Gallery of Ontario, The Royal Ontario Museum or the Ontario College of Art Purchase of debentures of the Art Gallery of Ontario, The Royal Ontario Museum or the Ontario College of Art

Ontario College of Art, bonds or debentures issued by such institutions for capital construction projects approved by the Lieutenant Governor in Council.

s. 15 (c),
re-enacted

4. Clause *c* of section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 39, section 4 and amended by 1973, chapter 65, section 5, is repealed and the following substituted therefor:

(*c*) the manner in which colleges, universities, municipalities, the Art Gallery of Ontario, The Royal Ontario Museum and the Ontario College of Art may apply to the Corporation for its purchase of their bonds or debentures, and the forms, records and proofs to be furnished with such applications.

Commencement

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Ontario Universities Capital Aid Corporation Amendment Act, 1974*.

An Act to amend
The Ontario Universities
Capital Aid Corporation Act

1st Reading

November 7th, 1974

2nd Reading

December 3rd, 1974

3rd Reading

December 3rd, 1974

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

CA20N
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-B 56

BILL 133

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to establish the Ontario Land Corporation

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



EXPLANATORY NOTES

The Bill establishes the Ontario Land Corporation as a corporation without share capital having as its objects the promotion of community and industrial development of land in Ontario by the acquisition of land and the disposal of it to persons in the private and government sectors for residential, community, industrial, governmental and commercial development. Among the principal features of the Bill are the following:

1. As well as being empowered to purchase and dispose of land in furtherance of community and industrial development, the Corporation is given investment powers to purchase the securities of any government, municipal or land oriented corporations, the purchase of which will further the development of land in Ontario.
2. Subject to the provisions of *The Expropriations Act*, the Corporation is given power to expropriate land.
3. The Board of Directors of the Corporation, to consist of its chairman and eleven other directors to be appointed by the Lieutenant Governor in Council, will be subject to a conflict of interest rule similar to that contained in *The Business Corporations Act* of Ontario.
4. With the approval of the Lieutenant Governor in Council, the Corporation may borrow money for its purposes and may issue notes, bonds, debentures and other securities to that end; such securities of the Corporation are made authorized investments under *The Pension Benefits Act* and *The Trustee Act* as well as for the funds of a corporation to which *The Loan and Trust Corporations Act* and *The Insurance Act* apply.
5. The Lieutenant Governor in Council is empowered to raise by way of loan in the manner provided by *The Financial Administration Act* such sums as are considered requisite, and such sums may be either advanced to the Corporation or applied by the Treasurer of Ontario in the purchase of securities issued by the Corporation.
6. Temporary loans may be made by the Corporation from any Canadian chartered bank or any other bank that is supervised by a central bank or other government authority in the jurisdiction where the bank carries on business.
7. Moneys may be appropriated by the Legislature for the purposes of the Corporation, and in certain circumstances a special warrant may be ordered in the event the appropriation for any project of the Corporation becomes exhausted in a fiscal year.
8. The Corporation is to deliver an annual report to the Minister who will lay the report before the Assembly and provision is made for auditing the accounts of the Corporation at least once in every year by a firm of auditors appointed by the Provincial Auditor. The audited accounts will be delivered by the Corporation to the Minister who will lay the accounts before the Assembly.

BILL 133**1974**

**An Act to establish
the Ontario Land Corporation**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1. In this Act,

Interpre-
tion

- (a) "Board" means the Board of Directors of the Corporation;
- (b) "Corporation" means the Ontario Land Corporation;
- (c) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (d) "Treasurer of Ontario" means the Treasurer of Ontario and Minister of Economics and Inter-governmental Affairs.

2. Except as herein otherwise provided, *The Corporations Act, The Loan and Trust Corporations Act and The Mortgage Brokers Act* do not apply to the Corporation.

Application
of
R.S.O. 1970,
cc. 89, 254, 278

INCORPORATION

3. There is hereby established a corporation without share capital under the name of "Ontario Land Corporation".

Incorpora-
tion

BOARD OF DIRECTORS

4.—(1) There shall be a Board of Directors of the Corporation consisting of twelve members who shall be appointed by the Lieutenant Governor in Council to hold office for a term not exceeding three years.

Board of
Directors

Chairman (2) The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board.

Reappointment (3) Each of the directors is eligible for reappointment upon the expiration of his term of office.

Remuneration (4) The Corporation may pay those of its directors who are not officers in the public service of Ontario such remuneration and expenses as may from time to time be fixed by the Lieutenant Governor in Council and such remuneration and expenses shall be part of the administration expense of the Corporation.

Seat in Assembly not vacated R.S.O. 1970, c. 240 (5) Notwithstanding anything in *The Legislative Assembly Act*, a member of the Assembly who is appointed a member of the Board is not thereby rendered ineligible as a member of the Assembly or disqualified from sitting or voting in the Assembly.

Removal from office (6) A member of the Board may be removed by the Lieutenant Governor in Council from office before the expiration of his term, and the Lieutenant Governor in Council may appoint any person in his stead for the remainder of his term.

CONFLICT

Disclosure by director of interest in contracts R.S.O. 1970, c. 100 5.—(1) Every director of the Corporation who has, directly or indirectly, any interest in any contract or transaction to which the Corporation or any corporation that is a Crown agency within the meaning of *The Crown Agency Act* is or is to be a party, other than a contract or transaction in which his interest is limited solely to his remuneration as a director, officer or employee, shall declare his interest in such contract or transaction at a meeting of the directors of the Corporation and shall at that time disclose the nature and extent of such interest including, as to any contract or transaction involving the purchase or sale of property by or to the Corporation or any corporation that is a Crown agency within the meaning of *The Crown Agency Act*, the cost of the property to the purchaser and the cost thereof to the seller if acquired by the seller within five years before the date of the contract or transaction, to the extent to which such interest or information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transaction be counted in the quorum.

Interest to be material (2) Subsection 1 does not require the disclosure of any interest in any contract or transaction unless the interest and the contract or transaction are both material.

(3) The declaration required by this section shall be made at the meeting of the directors at which the proposed contract or transaction is first considered, or if the director is not at the date of the meeting interested in the proposed contract or transaction, at the next meeting of the directors held after he becomes so interested, or if the director becomes interested in a contract or transaction after it is entered into, at the first meeting of the directors held after he becomes so interested, or if a contract or a proposed contract or transaction is one that in the ordinary course of the Corporation's business, would not require approval by the directors, at the first meeting of the directors held after the director becomes aware of it.

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the Corporation, the director, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the Corporation for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the Corporation at the time the contract or transaction was entered into, is not voidable by reason only of the director's interest therein.

Effect of declaration

(5) For the purposes of this section, a general notice to the directors by a director declaring that he is a director or officer of, or has a material interest in the person that is a party to a contract or proposed contract with the Corporation is a sufficient declaration of interest in relation to any contracts so made.

General notice

OATH OF OFFICE AND SECRECY

6. Every director, officer or employee of the Corporation and every agent and adviser whose services are engaged by the Corporation shall before entering upon his duties take, before a commissioner of oaths, the following oath or affirmation:

Oath of office and secrecy

I.....
do solemnly swear (or affirm) that I will faithfully, honestly and to the best of my judgment, skill and knowledge, execute and perform the duties required of me by *The Ontario Land Corporation Act, 1974* and all rules, directions and instructions thereunder as a director (officer, employee or agent, as the case may be) of the Ontario Land Corporation and that properly relate to my duties as a director (officer, employee or agent, as the case may be) of the Corporation.

I further solemnly swear (or affirm) that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the business of the Corporation, nor will I without due authority, allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

**Chairman
to preside**

7.—(1) The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman.

Quorum

(2) A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board.

By-laws

(3) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation.

**By-laws
and
resolutions**

8. Any by-law or resolution consented to by the signatures of all of the directors is as valid and effective as if it had been passed at a meeting of the Board held for that purpose.

Management

9. The Board shall manage or supervise the management of the business and affairs of the Corporation, provided that, in accordance with the policy of the Government of Ontario relating to the acquisition, use and development of land, the Board shall comply with any directions from time to time given to it in writing by the Lieutenant Governor in Council or the Minister with respect to the exercise of its powers.

**Matters
not to be
asserted by
Corporation**

10. The Corporation may not assert against a person dealing with the Corporation or with any person who has acquired rights from the Corporation that,

(a) the provisions of this Act have not been complied with;

(b) a direction referred to in section 9 has not been complied with;

(c) a person held out by the Corporation as a director, an officer or an agent of the Corporation has not been duly appointed or has no authority to exercise the powers and perform the duties that are customary in the business of the Corporation or usual for such director, officer or agent; or

- (d) a document issued by any director, officer or agent of the Corporation with actual or usual authority to issue the document is not valid or not genuine,

except where the person has or ought to have by virtue of his position with or relationship to the Corporation knowledge to the contrary.

11. Each director and each officer of the Corporation and his heirs, executors and administrators shall be indemnified and saved harmless by the Corporation from and against all costs, charges and expenses that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him for or in respect of any act, deed, matter or other thing, made, done or permitted by him in or about the execution of the duties of his office and any payments made by the Corporation with respect to such costs, charges and expenses, shall be part of the administration expense of the Corporation.

12.—(1) The Board shall elect from amongst their number an executive committee consisting of not fewer than three directors, one of whom shall be the chairman of the Board, and may delegate to the executive committee any powers of the Board subject to any restrictions which may be imposed by the Board.

(2) A majority of the number of members of the executive committee, or such greater number as the Board by by-law prescribes, constitutes a quorum.

OBJECTS AND POWERS OF THE CORPORATION

13.—(1) The objects of the Corporation are to assist in the promotion of community and industrial development of land in Ontario by the acquisition of land and the disposal of it to persons in the private and government sectors for residential, community, industrial, governmental and commercial development and, without limiting the generality thereof, in the carrying out of those objects the Corporation has power to,

(a) purchase, lease, take in exchange or otherwise acquire lands or interests therein, together with any buildings or structures on the lands;

(b) sell, lease, exchange, mortgage or otherwise dispose of the whole or any portion of the lands and all or any of the buildings or structures that are

then or may after be erected upon the lands and to take such payment or security therefor as may be necessary or desirable;

- (c) lend and invest money on security of real estate and to sell, mortgage, or otherwise dispose of mortgages;
- (d) subscribe for, purchase, invest in, sell, assign or otherwise deal in shares, stocks, bonds, debentures, notes and other securities of any government or municipal corporation, or of any corporation whose objects include the buying and selling of land; and
- (e) do anything that, in the opinion of the Board, can be done advantageously by the Corporation in connection with or ancillary to the carrying out of the objects of the Corporation set out in clauses *a*, *b*, *c* and *d*.

**Limitation
on
investments**

R.S.O. 1970,
c. 100

(2) The Corporation shall not invest in any of the securities mentioned in clause *d* of subsection 1 of a corporation that is a Crown agency within the meaning of *The Crown Agency Act* unless the board of directors of such corporation includes at least one person who is also a member of the Board.

**Incidental
powers**

R.S.O. 1970,
c. 89

14. The Corporation possesses as incidental and ancillary to its objects those powers contained in subsection 1 of section 24 of *The Corporations Act* except clauses *c*, *j*, *p*, *q*, *r* and *t* of that subsection.

**Expropria-
tion**

R.S.O. 1970,
c. 154

15. Subject to *The Expropriations Act*, the Corporation, for and in its own name, may, without the consent of the owner thereof, enter upon, take and expropriate any land or interest therein that it considers necessary for its use or purposes.

**Use of
services and
facilities of
ministries,
etc.**

16.—(1) In exercising its powers under this Act, the Corporation shall, where appropriate, make use of the services and facilities of any ministry, board, commission or agency of the Government of Ontario.

Staff

R.S.O. 1970,
c. 386

(2) The Corporation may engage persons under contract or otherwise or obtain the appointment under *The Public Service Act* of such persons as are considered necessary from time to time for the proper conduct of the affairs of the Corporation.

HEAD OFFICE AND CORPORATE SEAL

17. The Corporation shall have a head office at such ^{Head office} place within Ontario as the Lieutenant Governor in Council shall, from time to time, designate.

18. The Corporation shall have a seal which shall be^{Seal} adopted by resolution or by-law of the Board.

FISCAL YEAR

19. The fiscal year of the Corporation commences on the ^{Fiscal year} 1st day of April in each year and ends on the 31st day of March in the following year.

LOANS AND ADVANCES

20.—(1) Subject to the approval of the Lieutenant ^{General borrowing powers} Governor in Council, the Corporation may borrow from time to time such sums of money as it may consider requisite for any of its purposes and, for the purpose of such borrowing, may issue notes, bonds, debentures and other securities bearing interest at such rate or rates, and payable as to principal, interest and premium, if any, at such time or times and in such manner and in such place or places in Canada or elsewhere, and in the currency of such country or countries, as the Corporation may determine, and such notes, bonds, debentures and other securities may be made redeemable in advance of maturity, at such time or times, and at such price or prices, and in such manner, and either with or without premium, as the Corporation may determine at the time of issue thereof.

(2) Where, pursuant to subsection 1, the Board, with the ^{Idem} approval of the Lieutenant Governor in Council, has passed a resolution authorizing the borrowing of money by the issue from time to time of notes, bonds, debentures or other securities maturing not later than five years from the respective dates thereof and bearing interest at a rate or rates not exceeding the maximum rate of interest specified in the resolution, the Board without any further approval of the Lieutenant Governor in Council may subsequently and from time to time authorize the issue of such notes, bonds, debentures or other securities, within the maximum principal amount prescribed by such resolution, bearing such respective dates, maturing not later than

five years from such respective dates, and bearing interest at such respective rates not exceeding the said maximum interest rate, as the Board, in its discretion, may from time to time determine.

Purposes of Corporation

(3) The purposes of the Corporation, mentioned in subsection 1, without limiting the generality thereof, include,

- (a) repayment on account of the advances by the Province of Ontario to the Corporation;
- (b) payment in whole or in part of any notes, bonds, debentures or other securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances from the Province of Ontario to the Corporation;
- (c) payment, refunding or renewal from time to time of the whole or any part of any loan raised or securities issued by the Corporation under this or any other Act;
- (d) payment of the whole or any part of any loan or of any liability or of any notes, bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Corporation;
- (e) payment of the whole or any part of any other liability or indebtedness of the Corporation; and
- (f) carrying out any of the objects and powers of the Corporation referred to in section 13.

Resolution conclusive

(4) Where a resolution of the Board authorizing the issue of securities contains a recital or declaration that the amount of the securities so authorized is necessary to realize the net sum required for the purposes of the Corporation, the recital or declaration is conclusive evidence of the facts stated therein.

Corporation may sell or pledge

(5) The Corporation may sell or otherwise dispose of any such notes, bonds, debentures and other securities at such price or prices, and on such terms and conditions, as it considers advisable, and either at the face amount thereof or at less or more than the face amount thereof, and may charge, pledge, hypothecate, deposit or otherwise deal with any such securities as collateral security.

(6) Any such securities dealt with as collateral security when redelivered to the Corporation or its nominees on or after payment, satisfaction, release or discharge in whole or in part of any indebtedness or obligation for which such securities may have been given as collateral, or when the Corporation again becomes entitled to such securities, may be treated by the Corporation as unissued and may be issued, reissued, charged, pledged, hypothecated, deposited, dealt with as collateral security, sold or otherwise disposed of from time to time upon such terms and conditions as the Board considers advisable, or at its option, may be cancelled and fresh securities to the like amount and in like form may be issued in lieu thereof with the like consequences and upon such issue or reissue any person entitled thereto has the same rights and remedies as if the same had not been previously issued.

(7) The Corporation on such terms and conditions as it considers advisable may charge, pledge, hypothecate, deposit or otherwise deal with, as collateral security, any notes, bonds, debentures or other securities purchased by it under section 13.

(8) The notes, bonds, debentures and other securities of the Corporation shall be in such form or forms and in such denomination or denominations and shall be executed in such manner and by such persons as the Board may determine.

(9) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any security to which it is to be affixed and any signatures upon any such security and upon the coupons, if any, attached thereto may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

(10) The seal of the Corporation when so mechanically reproduced has the same force and effect as if manually affixed and such mechanically reproduced signatures are for all purposes valid and binding upon the Corporation notwithstanding that a person whose signature is so reproduced has ceased to hold office before the date of the security or before its issue.

21. The Treasurer of Ontario, with the approval of the Lieutenant Governor in Council and upon such terms and conditions as the Lieutenant Governor in Council may prescribe, may make loans to the Corporation and may acquire and hold as evidence thereof bonds, debentures, notes or other evidences of indebtedness of the Corporation.

Government
authorized
to raise
funds for
purposes of
Corporation
R.S.O. 1970,
c. 166

22. The Lieutenant Governor in Council may raise by way of loan in the manner provided by *The Financial Administration Act* such sums as he considers requisite for the purposes of this Act, and the sums so raised may either be advanced to the Corporation or applied by the Treasurer of Ontario in the purchase of notes, bonds, debentures or other securities of the Corporation issued by the Corporation under this Act.

Advances
may be made
on terms and
conditions
agreed upon

23. All advances made by the Province of Ontario to the Corporation shall be made on such terms and conditions as are agreed upon between the Corporation and the Treasurer of Ontario, and without limiting the generality of the foregoing, the Corporation, in consideration of any advance, may,

- (a) issue and deliver to the Treasurer of Ontario notes, bonds, debentures or other securities of the Corporation for the same principal amount, maturing on the same date or dates, bearing interest at the same rate or rates, and payable as to both principal and interest in the same currency or currencies as the debentures or other securities of the Province of Ontario issued for the purpose of raising the money advanced by the Province of Ontario to the Corporation, and containing such other terms and conditions, if any, as to redemption in advance of maturity or otherwise as the Treasurer of Ontario approves; and
- (b) agree to reimburse the Province of Ontario for all charges and expenses incurred or to be incurred by the Province of Ontario in connection with the creation and issue of such debentures or other securities of the Province of Ontario and the payment from time to time of the interest thereon and the principal thereof whether at maturity or on redemption before maturity and of the amount of the premium, if any, on the redemption, and such other charges and expenses as the Province of Ontario incurs.

Temporary
loans

R.S.C. 1970.
c. B-1

24.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time for any of the purposes of the Corporation, borrow by way of temporary loan from any chartered bank to which the *Bank Act* (Canada) applies, from any other bank which is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business or from

any person such sums as the Corporation considered requisite, either by way of bank overdraft or loan or in any other manner whatsoever.

(2) For the purposes of subsection 1, the Corporation ^{Security for temporary loans} may pledge as security, notes, bonds, debentures or other securities of the Corporation pending the sale thereof or in lieu of selling the same, or may pledge as security, bonds, debentures or other securities owned by the Corporation, or otherwise give such security as the Corporation determines, and any cheques, promissory notes or other instruments that may be necessary or desirable for the purposes of subsection 1 or this subsection may be executed in such manner as the Corporation determines.

25. Where the Legislature has appropriated money ^{Payment over to Corporation of moneys appropriated} for the purposes of the Corporation, such money is payable out of such appropriation to the Corporation from time to time upon the requisition of the chairman of the Corporation and the direction of the Lieutenant Governor in Council, in such amounts and at such times as are stated in the requisition and direction, and this section has effect notwithstanding that there may be sums due from the Corporation to the Province of Ontario and notwithstanding anything in *The Financial Administration Act*. R.S.O. 1970,
c. 166

26. Where the appropriation made by the Legislature ^{Where appropriation is exhausted, special warrant may issue} for any project of the Corporation becomes exhausted in a fiscal year and the chairman of the Corporation reports to the Lieutenant Governor in Council that it is necessary and expedient that such project be proceeded with and that an additional amount is required for that purpose, the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor for the issue of the amount estimated to be required in such fiscal year, and, when issued, such amount shall be placed by the Treasurer of Ontario to the credit of a special account against which cheques may be issued in favour of the Corporation for such sums as are required.

GENERAL

27. The notes, bonds, debentures and other securities issued by the Corporation are authorized investments for the funds of a corporation to which *The Loan and Trust Corporations Act* or *The Insurance Act* apply and are ^{Corporation securities authorized investments} authorized investments under *The Pension Benefits Act* and *The Trustee Act*. R.S.O. 1970,
cc. 254, 224,
342, 470

28.—(1) The Corporation may from time to time, for ^{Management of funds} the sound and efficient management of its funds, in its

discretion and on such terms and conditions as it may consider advisable, purchase, acquire, hold and sell or otherwise dispose of any of the following securities:

1. The bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or Ontario or any other province of Canada.
2. The bonds, debentures or other evidences of indebtedness of corporations referred to in clauses *c*, *e*, *f*, *g*, *i* and *k* of subsection 1 of section 383 of *The Insurance Act* and in which joint stock insurance companies may invest their funds.
3. The deposit receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by any chartered bank to which the *Bank Act* (Canada) applies, or by any other bank which is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business.
4. The guaranteed investment certificates of any trust company that is registered under *The Loan and Trust Corporations Act*.

R.S.O. 1970,
c. 224

R.S.C. 1970,
c. B-1

R.S.O. 1970,
c. 254

Deposit of
funds

(2) The Corporation may deposit from time to time any part of its funds in any chartered bank to which the *Bank Act* (Canada) applies or in any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act* or with the Province of Ontario Savings Office, upon such terms and conditions and for such periods as the Corporation may consider expedient.

ANNUAL REPORT

Annual
report

29.—(1) The Corporation shall, after the close of each fiscal year, deliver to the Minister an annual report upon the affairs of the Corporation signed by the chairman and one other director of the Board, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Additional
reports

(2) In addition to making an annual report under subsection 1, the Corporation shall make to the Minister such other report on its affairs as the Minister from time to time may require.

AUDIT OF ACCOUNTS

30.—(1) The accounts of the Corporation shall be from time to time, and at least once every year, audited and reported upon by an auditor or firm of auditors appointed by the Provincial Auditor.

(2) The expenses of such audits shall be fixed by the Corporation, with the approval of the Lieutenant Governor in Council, and are payable by the Corporation as part of the costs of administration of the Corporation.

(3) Within thirty days of receipt thereof, the Corporation shall deliver to the Minister the audited accounts of the Corporation, and the Minister shall submit them to the Lieutenant Governor in Council and shall then lay the audited accounts before the Assembly if it is in session or, if not, at the next ensuing session.

31. The moneys required for the purpose of defraying the operating expenses of the Corporation shall, until the 31st day of March, 1975, be paid out of the Consolidated Revenue Fund, and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

32. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

33. This Act may be cited as *The Ontario Land Corporation Act, 1974*.

BILL 133

An Act to establish
the Ontario Land Corporation

1st Reading

November 7th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

CAZUN
XB
-B 56

BILL 133

Government
Publications
Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to establish the Ontario Land Corporation



THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

(Reprinted as amended by the Administration of Justice Committee)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

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The Bill establishes the Ontario Land Corporation as a corporation without share capital having as its objects the promotion of community and industrial development of land in Ontario by the acquisition of land and the disposal of it to persons in the private and government sectors for residential, community, industrial, governmental and commercial development. Among the principal features of the Bill are the following:

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2. Subject to the provisions of *The Expropriations Act*, the Corporation is given power to expropriate land.
3. The Board of Directors of the Corporation, to consist of its chairman and from five to eleven other directors to be appointed by the Lieutenant Governor in Council, will be subject to a conflict of interest rule similar to that contained in *The Business Corporations Act* of Ontario.
4. With the approval of the Lieutenant Governor in Council, the Corporation may borrow money for its purposes and may issue notes, bonds, debentures and other securities to that end; such securities of the Corporation are made authorized investments under *The Pension Benefits Act* and *The Trustee Act* as well as for the funds of a corporation to which *The Loan and Trust Corporations Act* and *The Insurance Act* apply.
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- (b) "Corporation" means the Ontario Land Corporation;
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- (d) "Treasurer of Ontario" means the Treasurer of Ontario and Minister of Economics and Inter-governmental Affairs.

2. Except as herein otherwise provided, *The Corporations Act, The Loan and Trust Corporations Act and The Mortgage Brokers Act* do not apply to the Corporation. Application of R.S.O. 1970, c.c. 89, 254, 278

INCORPORATION

3. There is hereby established a corporation without share capital under the name of "Ontario Land Corporation". Incorpora-
tion

BOARD OF DIRECTORS

4.—(1) There shall be a Board of Directors of the Corporation consisting of not fewer than six and not more than twelve members who shall be appointed by the Lieutenant Governor in Council to hold office for a term not exceeding three years. Board of
Directors

Chairman (2) The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board.

Reappointment (3) Each of the directors is eligible for reappointment upon the expiration of his term of office.

Remuneration (4) The Corporation may pay those of its directors who are not officers in the public service of Ontario such remuneration and expenses as may from time to time be fixed by the Lieutenant Governor in Council and such remuneration and expenses shall be part of the administration expense of the Corporation.

Seat in Assembly not vacated R.S.O. 1970, c. 240 (5) Notwithstanding anything in *The Legislative Assembly Act*, a member of the Assembly who is appointed a member of the Board is not thereby rendered ineligible as a member of the Assembly or disqualified from sitting or voting in the Assembly.

Removal from office (6) A member of the Board may be removed by the Lieutenant Governor in Council from office before the expiration of his term, and the Lieutenant Governor in Council may appoint any person in his stead for the remainder of his term.

CONFLICT

Disclosure by director of interest in contracts R.S.O. 1970, c. 100 5.—(1) Every director of the Corporation who has, directly or indirectly, any interest in any contract or transaction to which the Corporation or any corporation that is a Crown agency within the meaning of *The Crown Agency Act* is or is to be a party, other than a contract or transaction in which his interest is limited solely to his remuneration as a director, officer or employee, shall declare his interest in such contract or transaction at a meeting of the directors of the Corporation and shall at that time disclose the nature and extent of such interest including, as to any contract or transaction involving the purchase or sale of property by or to the Corporation or any corporation that is a Crown agency within the meaning of *The Crown Agency Act*, the cost of the property to the purchaser and the cost thereof to the seller if acquired by the seller within five years before the date of the contract or transaction, to the extent to which such interest or information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transaction be counted in the quorum.

Interest to be material (2) Subsection 1 does not require the disclosure of any interest in any contract or transaction unless the interest and the contract or transaction are both material.

(3) The declaration required by this section shall be made at the meeting of the directors at which the proposed contract or transaction is first considered, or if the director is not at the date of the meeting interested in the proposed contract or transaction, at the next meeting of the directors held after he becomes so interested, or if the director becomes interested in a contract or transaction after it is entered into, at the first meeting of the directors held after he becomes so interested, or if a contract or a proposed contract or transaction is one that in the ordinary course of the Corporation's business, would not require approval by the directors, at the first meeting of the directors held after the director becomes aware of it.

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the Corporation, the director, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the Corporation for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the Corporation at the time the contract or transaction was entered into, is not voidable by reason only of the director's interest therein.

(5) For the purposes of this section, a general notice to the directors by a director declaring that he is a director or officer of, or has a material interest in the person that is a party to a contract or proposed contract with the Corporation is a sufficient declaration of interest in relation to any contracts so made.

OATH OF OFFICE AND SECRECY

6. Every director, officer or employee of the Corporation and every agent and adviser whose services are engaged by the Corporation shall before entering upon his duties take, before a commissioner of oaths, the following oath or affirmation:

I.....
do solemnly swear (or affirm) that I will faithfully, honestly and to the best of my judgment, skill and knowledge, execute and perform the duties required of me by *The Ontario Land Corporation Act, 1974* and all rules, directions and instructions thereunder as a director (officer, employee or agent, as the case may be) of the Ontario Land Corporation and that properly relate to my duties as a director (officer, employee or agent, as the case may be) of the Corporation.

I further solemnly swear (or affirm) that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the business of the Corporation, nor will I without due authority, allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

Chairman
to preside

7.—(1) The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman.

Quorum

(2) A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board.

By-laws

(3) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation.

By-laws
and
resolutions

8. Any by-law or resolution consented to by the signatures of all of the directors is as valid and effective as if it had been passed at a meeting of the Board held for that purpose.

Management

9. The Board shall manage or supervise the management of the business and affairs of the Corporation, provided that, in accordance with the policy of the Government of Ontario relating to the acquisition, use and development of land, the Board shall comply with any directions from time to time given to it in writing by the Lieutenant Governor in Council or the Minister with respect to the exercise of its powers.

Matters
not to be
asserted by
Corporation

10. The Corporation may not assert against a person dealing with the Corporation or with any person who has acquired rights from the Corporation that,

- (a) the provisions of this Act have not been complied with;
- (b) a direction referred to in section 9 has not been complied with;
- (c) a person held out by the Corporation as a director, an officer or an agent of the Corporation has not been duly appointed or has no authority to exercise the powers and perform the duties that are customary in the business of the Corporation or usual for such director, officer or agent; or

- (d) a document issued by any director, officer or agent of the Corporation with actual or usual authority to issue the document is not valid or not genuine,

except where the person has or ought to have by virtue of his position with or relationship to the Corporation knowledge to the contrary.

11. Each director and each officer of the Corporation and his heirs, executors and administrators shall be indemnified and saved harmless by the Corporation from and against all costs, charges and expenses that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him for or in respect of any act, deed, matter or other thing, made, done or permitted by him in or about the execution of the duties of his office and any payments made by the Corporation with respect to such costs, charges and expenses, shall be part of the administration expense of the Corporation.

12.—(1) The Board shall elect from amongst their number an executive committee consisting of not fewer than three directors, one of whom shall be the chairman of the Board, and may delegate to the executive committee any powers of the Board subject to any restrictions which may be imposed by the Board.

(2) A majority of the number of members of the executive committee, or such greater number as the Board by by-law prescribes, constitutes a quorum.

OBJECTS AND POWERS OF THE CORPORATION

13.—(1) The objects of the Corporation are to assist in the promotion of community and industrial development of land in Ontario by the acquisition of land and the disposal of it to persons in the private and government sectors for residential, community, industrial, governmental and commercial development and, without limiting the generality thereof, in the carrying out of those objects the Corporation has power to,

- (a) purchase, lease, take in exchange or otherwise acquire lands or interests therein, together with any buildings or structures on the lands;
- (b) sell, lease, exchange, mortgage or otherwise dispose of the whole or any portion of the lands and all or any of the buildings or structures that are

then or may after be erected upon the lands and to take such payment or security therefor as may be necessary or desirable;

- (c) lend and invest money on security of real estate and to sell, mortgage, or otherwise dispose of mortgages;
- (d) subscribe for, purchase, invest in, sell, assign or otherwise deal in shares, stocks, bonds, debentures, notes and other securities of any government or municipal corporation, or of any corporation whose objects include the buying and selling of land; and
- (e) do anything that, in the opinion of the Board, can be done advantageously by the Corporation in connection with or ancillary to the carrying out of the objects of the Corporation set out in clauses *a*, *b*, *c* and *d*.

Limitation
on
investments

R.S.O. 1970,
c. 100

(2) The Corporation shall not invest in any of the securities mentioned in clause *d* of subsection 1 of a corporation that is a Crown agency within the meaning of *The Crown Agency Act* unless the board of directors of such corporation includes at least one person who is also a member of the Board.

Incidental
powers

R.S.O. 1970,
c. 89

14. The Corporation possesses as incidental and ancillary to its objects those powers contained in subsection 1 of section 24 of *The Corporations Act* except clauses *c*, *j*, *q*, *r* and *t* of that subsection.

Expropria-
tion
R.S.O. 1970,
c. 154

15. Subject to *The Expropriations Act*, the Corporation, for and in its own name, may, without the consent of the owner thereof, enter upon, take and expropriate any land or interest therein that it considers necessary for its use or purposes.

Use of
services and
facilities of
ministries,
etc.

16.—(1) In exercising its powers under this Act, the Corporation shall, where appropriate, make use of the services and facilities of any ministry, board, commission or agency of the Government of Ontario.

Staff
R.S.O. 1970,
c. 386

(2) The Corporation may engage persons under contract or otherwise or obtain the appointment under *The Public Service Act* of such persons as are considered necessary from time to time for the proper conduct of the affairs of the Corporation.

HEAD OFFICE AND CORPORATE SEAL

17. The Corporation shall have a head office at such ^{Head office} place within Ontario as the Lieutenant Governor in Council shall, from time to time, designate.

18. The Corporation shall have a seal which shall be ^{Seal} adopted by resolution or by-law of the Board.

FISCAL YEAR

19. The fiscal year of the Corporation commences on the ^{Fiscal} _{year} 1st day of April in each year and ends on the 31st day of March in the following year.

LOANS AND ADVANCES

20.—(1) Subject to the approval of the Lieutenant ^{General borrowing powers} Governor in Council, the Corporation may borrow from time to time such sums of money as it may consider requisite for any of its purposes and, for the purpose of such borrowing, may issue notes, bonds, debentures and other securities bearing interest at such rate or rates, and payable as to principal, interest and premium, if any, at such time or times and in such manner and in such place or places in Canada or elsewhere, and in the currency of such country or countries, as the Corporation may determine, and such notes, bonds, debentures and other securities may be made redeemable in advance of maturity, at such time or times, and at such price or prices, and in such manner, and either with or without premium, as the Corporation may determine at the time of issue thereof.

(2) Where, pursuant to subsection 1, the Board, with the ^{Idem} approval of the Lieutenant Governor in Council, has passed a resolution authorizing the borrowing of money by the issue from time to time of notes, bonds, debentures or other securities maturing not later than five years from the respective dates thereof and bearing interest at a rate or rates not exceeding the maximum rate of interest specified in the resolution, the Board without any further approval of the Lieutenant Governor in Council may subsequently and from time to time authorize the issue of such notes, bonds, debentures or other securities, within the maximum principal amount prescribed by such resolution, bearing such respective dates, maturing not later than

five years from such respective dates, and bearing interest at such respective rates not exceeding the said maximum interest rate, as the Board, in its discretion, may from time to time determine.

Purposes of Corporation

(3) The purposes of the Corporation, mentioned in subsection 1, without limiting the generality thereof, include,

- (a) repayment on account of the advances by the Province of Ontario to the Corporation;
- (b) payment in whole or in part of any notes, bonds, debentures or other securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances from the Province of Ontario to the Corporation;
- (c) payment, refunding or renewal from time to time of the whole or any part of any loan raised or securities issued by the Corporation under this or any other Act;
- (d) payment of the whole or any part of any loan or of any liability or of any notes, bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Corporation;
- (e) payment of the whole or any part of any other liability or indebtedness of the Corporation; and
- (f) carrying out any of the objects and powers of the Corporation referred to in section 13.

Resolution conclusive

(4) Where a resolution of the Board authorizing the issue of securities contains a recital or declaration that the amount of the securities so authorized is necessary to realize the net sum required for the purposes of the Corporation, the recital or declaration is conclusive evidence of the facts stated therein.

Corporation may sell or pledge

(5) The Corporation may sell or otherwise dispose of any such notes, bonds, debentures and other securities at such price or prices, and on such terms and conditions, as it considers advisable, and either at the face amount thereof or at less or more than the face amount thereof, and may charge, pledge, hypothecate, deposit or otherwise deal with any such securities as collateral security.

(6) Any such securities dealt with as collateral security when redelivered to the Corporation or its nominees on or after payment, satisfaction, release or discharge in whole or in part of any indebtedness or obligation for which such securities may have been given as collateral, or when the Corporation again becomes entitled to such securities, may be treated by the Corporation as unissued and may be issued, reissued, charged, pledged, hypothecated, deposited, dealt with as collateral security, sold or otherwise disposed of from time to time upon such terms and conditions as the Board considers advisable, or at its option, may be cancelled and fresh securities to the like amount and in like form may be issued in lieu thereof with the like consequences and upon such issue or reissue any person entitled thereto has the same rights and remedies as if the same had not been previously issued.

(7) The Corporation on such terms and conditions as it considers advisable may charge, pledge, hypothecate, deposit or otherwise deal with, as collateral security, any notes, bonds, debentures or other securities purchased by it under section 13.

(8) The notes, bonds, debentures and other securities of the Corporation shall be in such form or forms and in such denomination or denominations and shall be executed in such manner and by such persons as the Board may determine.

(9) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any security to which it is to be affixed and any signatures upon any such security and upon the coupons, if any, attached thereto may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

(10) The seal of the Corporation when so mechanically reproduced has the same force and effect as if manually affixed and such mechanically reproduced signatures are for all purposes valid and binding upon the Corporation notwithstanding that a person whose signature is so reproduced has ceased to hold office before the date of the security or before its issue.

21.—(1) The Treasurer of Ontario, with the approval of the Lieutenant Governor in Council and upon such terms and conditions as the Lieutenant Governor in Council may prescribe, may make loans to the Corporation and may acquire and hold as evidence thereof bonds, debentures, notes or other evidences of indebtedness of the Corporation.

 Moneys

(2) Notwithstanding the provisions of section 30, the moneys required for the purposes of subsection 1 shall be paid out of the Consolidated Revenue Fund. 

Government
authorized
to raise
funds for
purposes of
Corporation
R.S.O. 1970,
c. 166

22. The Lieutenant Governor in Council may raise by way of loan in the manner provided by *The Financial Administration Act* such sums as he considers requisite for the purposes of this Act, and the sums so raised may either be advanced to the Corporation or applied by the Treasurer of Ontario in the purchase of notes, bonds, debentures or other securities of the Corporation issued by the Corporation under this Act.

Advances
may be made
on terms and
conditions
agreed upon

23. All advances made by the Province of Ontario to the Corporation shall be made on such terms and conditions as are agreed upon between the Corporation and the Treasurer of Ontario, and without limiting the generality of the foregoing, the Corporation, in consideration of any advance, may,

- (a) issue and deliver to the Treasurer of Ontario notes, bonds, debentures or other securities of the Corporation for the same principal amount, maturing on the same date or dates, bearing interest at the same rate or rates, and payable as to both principal and interest in the same currency or currencies as the debentures or other securities of the Province of Ontario issued for the purpose of raising the money advanced by the Province of Ontario to the Corporation, and containing such other terms and conditions, if any, as to redemption in advance of maturity or otherwise as the Treasurer of Ontario approves; and
- (b) agree to reimburse the Province of Ontario for all charges and expenses incurred or to be incurred by the Province of Ontario in connection with the creation and issue of such debentures or other securities of the Province of Ontario and the payment from time to time of the interest thereon and the principal thereof whether at maturity or on redemption before maturity and of the amount of the premium, if any, on the redemption, and such other charges and expenses as the Province of Ontario incurs.

24.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time for any of the purposes of the Corporation, borrow by way of temporary loan from any chartered bank to which the *Bank Act* (Canada) applies, from any other bank which is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business or from any person such sums as the Corporation considered requisite, either by way of bank overdraft or loan or in any other manner whatsoever.

Temporary loans

R.S.C. 1970,
c. B-1

(2) For the purposes of subsection 1, the Corporation may pledge as security, notes, bonds, debentures or other securities of the Corporation pending the sale thereof or in lieu of selling the same, or may pledge as security, bonds, debentures or other securities owned by the Corporation, or otherwise give such security as the Corporation determines, and any cheques, promissory notes or other instruments that may be necessary or desirable for the purposes of subsection 1 or this subsection may be executed in such manner as the Corporation determines.

Security for
temporary
loans

25. Where the Legislature has appropriated money for the purposes of the Corporation, such money is payable out of such appropriation to the Corporation from time to time upon the requisition of the chairman of the Corporation and the direction of the Lieutenant Governor in Council, in such amounts and at such times as are stated in the requisition and direction, and this section has effect notwithstanding that there may be sums due from the Corporation to the Province of Ontario and notwithstanding anything in *The Financial Administration Act*.

Payment
over to
Corporation
of moneys
appropriatedR.S.O. 1970,
c. 166

GENERAL

26. The notes, bonds, debentures and other securities issued by the Corporation are authorized investments for the funds of a corporation to which *The Loan and Trust Corporations Act* or *The Insurance Act* apply and are authorized investments under *The Pension Benefits Act* and *The Trustee Act*.

Corporation
securities
authorized
investmentsR.S.O. 1970,
cc. 254, 224,
342, 470

27.—(1) The Corporation may from time to time, for the sound and efficient management of its funds, in its discretion and on such terms and conditions as it may consider advisable, purchase, acquire, hold and sell or otherwise dispose of any of the following securities:

Management
of funds

- R.S.O. 1970,
c. 224
- R.S.C. 1970,
c. B-1
- R.S.O. 1970,
c. 254
1. The bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or Ontario or any other province of Canada.
 2. The bonds, debentures or other evidences of indebtedness of corporations referred to in clauses *c*, *e*, *f*, *g*, *i* and *k* of subsection 1 of section 383 of *The Insurance Act* and in which joint stock insurance companies may invest their funds.
 3. The deposit receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by any chartered bank to which the *Bank Act* (Canada) applies, or by any other bank which is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business.
 4. The guaranteed investment certificates of any trust company that is registered under *The Loan and Trust Corporations Act*.

Deposit of
funds

(2) The Corporation may deposit from time to time any part of its funds in any chartered bank to which the *Bank Act* (Canada) applies or in any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act* or with the Province of Ontario Savings Office, upon such terms and conditions and for such periods as the Corporation may consider expedient.

ANNUAL REPORT

Annual
report

28.—(1) The Corporation shall, after the close of each fiscal year, deliver to the Minister an annual report upon the affairs of the Corporation signed by the chairman and one other director of the Board, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Additional
reports

(2) In addition to making an annual report under subsection 1, the Corporation shall make to the Minister such other report on its affairs as the Minister from time to time may require.

AUDIT OF ACCOUNTS

Audit
of
accounts

29.—(1) The accounts and financial transactions of the Corporation shall be audited annually by an auditor or firm of auditors appointed by the Corporation and such auditor

or firm of auditors, so appointed, shall be under the direction of and report to the Provincial Auditor.

(2) A report on the audit shall be made by the Provincial ^{Report} Auditor to the Corporation and to the Minister.

(3) The expenses of such audits shall be fixed by the ^{Expenses of} Corporation, with the approval of the Lieutenant Governor ^{audits} in Council, and are payable by the Corporation as part of the costs of administration of the Corporation.

(4) The audited accounts of the Corporation shall form ^{Audit to} ^{part of} ^{form part} ^{of} ^{annual} ^{report} part of the annual report of the Corporation.

30. The moneys required for the purpose of defraying ^{Moneys} the operating expenses of the Corporation shall, until the 31st day of March, 1975, be paid out of the Consolidated Revenue Fund, and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

31. This Act comes into force on a day to be named by ^{Commencement} proclamation of the Lieutenant Governor.

32. This Act may be cited as *The Ontario Land Cor-* ^{Short title} *poration Act, 1974.*

An Act to establish
the Ontario Land Corporation

1st Reading

November 7th, 1974

2nd Reading

December 13th, 1974

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Reprinted as amended by the
Administration of Justice Committee)

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Publications

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4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Ontario. Legislative Assembly

An Act to establish the Ontario Land Corporation

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs



TORONTO

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BILL 133**1974**

**An Act to establish
the Ontario Land Corporation**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1. In this Act,

Interpre-
tation

- (a) "Board" means the Board of Directors of the Corporation;
- (b) "Corporation" means the Ontario Land Corporation;
- (c) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (d) "Treasurer of Ontario" means the Treasurer of Ontario and Minister of Economics and Inter-governmental Affairs.

2. Except as herein otherwise provided, *The Corporations Act*, *The Loan and Trust Corporations Act* and *The Mortgage Brokers Act* do not apply to the Corporation.

Application
of
R.S.O. 1970,
cc. 89, 254, 278

INCORPORATION

3. There is hereby established a corporation without share capital under the name of "Ontario Land Corporation".

BOARD OF DIRECTORS

4.—(1) There shall be a Board of Directors of the Corporation consisting of not fewer than six and not more than twelve members who shall be appointed by the Lieutenant Governor in Council to hold office for a term not exceeding three years.

Board of
Directors

Chairman (2) The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board.

Reappointment (3) Each of the directors is eligible for reappointment upon the expiration of his term of office.

Remuneration (4) The Corporation may pay those of its directors who are not officers in the public service of Ontario such remuneration and expenses as may from time to time be fixed by the Lieutenant Governor in Council and such remuneration and expenses shall be part of the administration expense of the Corporation.

**Seat in Assembly
not vacated
R.S.O. 1970,
c. 240** (5) Notwithstanding anything in *The Legislative Assembly Act*, a member of the Assembly who is appointed a member of the Board is not thereby rendered ineligible as a member of the Assembly or disqualified from sitting or voting in the Assembly.

Removal from office (6) A member of the Board may be removed by the Lieutenant Governor in Council from office before the expiration of his term, and the Lieutenant Governor in Council may appoint any person in his stead for the remainder of his term.

CONFLICT

**Disclosure by director of interest in contracts
R.S.O. 1970, c. 100** 5.—(1) Every director of the Corporation who has, directly or indirectly, any interest in any contract or transaction to which the Corporation or any corporation that is a Crown agency within the meaning of *The Crown Agency Act* is or is to be a party, other than a contract or transaction in which his interest is limited solely to his remuneration as a director, officer or employee, shall declare his interest in such contract or transaction at a meeting of the directors of the Corporation and shall at that time disclose the nature and extent of such interest including, as to any contract or transaction involving the purchase or sale of property by or to the Corporation or any corporation that is a Crown agency within the meaning of *The Crown Agency Act*, the cost of the property to the purchaser and the cost thereof to the seller if acquired by the seller within five years before the date of the contract or transaction, to the extent to which such interest or information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transaction be counted in the quorum.

Interest to be material (2) Subsection 1 does not require the disclosure of any interest in any contract or transaction unless the interest and the contract or transaction are both material.

(3) The declaration required by this section shall be made at the meeting of the directors at which the proposed contract or transaction is first considered, or if the director is not at the date of the meeting interested in the proposed contract or transaction, at the next meeting of the directors held after he becomes so interested, or if the director becomes interested in a contract or transaction after it is entered into, at the first meeting of the directors held after he becomes so interested, or if a contract or a proposed contract or transaction is one that in the ordinary course of the Corporation's business, would not require approval by the directors, at the first meeting of the directors held after the director becomes aware of it.

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the Corporation, the director, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the Corporation for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the Corporation at the time the contract or transaction was entered into, is not voidable by reason only of the director's interest therein.

(5) For the purposes of this section, a general notice to the directors by a director declaring that he is a director or officer of, or has a material interest in the person that is a party to a contract or proposed contract with the Corporation is a sufficient declaration of interest in relation to any contracts so made.

OATH OF OFFICE AND SECRECY

6. Every director, officer or employee of the Corporation and every agent and adviser whose services are engaged by the Corporation shall before entering upon his duties take, before a commissioner of oaths, the following oath or affirmation:

I.....
do solemnly swear (or affirm) that I will faithfully, honestly and to the best of my judgment, skill and knowledge, execute and perform the duties required of me by *The Ontario Land Corporation Act, 1974* and all rules, directions and instructions thereunder as a director (officer, employee or agent, as the case may be) of the Ontario Land Corporation and that properly relate to my duties as a director (officer, employee or agent, as the case may be) of the Corporation.

I further solemnly swear (or affirm) that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the business of the Corporation, nor will I without due authority, allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

**Chairman
to preside**

7.—(1) The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman.

Quorum

(2) A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board.

By-laws

(3) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation.

**By-laws
and
resolutions**

8. Any by-law or resolution consented to by the signatures of all of the directors is as valid and effective as if it had been passed at a meeting of the Board held for that purpose.

Management

9. The Board shall manage or supervise the management of the business and affairs of the Corporation, provided that, in accordance with the policy of the Government of Ontario relating to the acquisition, use and development of land, the Board shall comply with any directions from time to time given to it in writing by the Lieutenant Governor in Council or the Minister with respect to the exercise of its powers.

**Matters
not to be
asserted by
Corporation**

10. The Corporation may not assert against a person dealing with the Corporation or with any person who has acquired rights from the Corporation that,

(a) the provisions of this Act have not been complied with;

(b) a direction referred to in section 9 has not been complied with;

(c) a person held out by the Corporation as a director, an officer or an agent of the Corporation has not been duly appointed or has no authority to exercise the powers and perform the duties that are customary in the business of the Corporation or usual for such director, officer or agent; or

- (d) a document issued by any director, officer or agent of the Corporation with actual or usual authority to issue the document is not valid or not genuine,

except where the person has or ought to have by virtue of his position with or relationship to the Corporation knowledge to the contrary.

11. Each director and each officer of the Corporation and his heirs, executors and administrators shall be indemnified and saved harmless by the Corporation from and against all costs, charges and expenses that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him for or in respect of any act, deed, matter or other thing, made, done or permitted by him in or about the execution of the duties of his office and any payments made by the Corporation with respect to such costs, charges and expenses, shall be part of the administration expense of the Corporation.

12.—(1) The Board shall elect from amongst their number an executive committee consisting of not fewer than three directors, one of whom shall be the chairman of the Board, and may delegate to the executive committee any powers of the Board subject to any restrictions which may be imposed by the Board.

(2) A majority of the number of members of the executive committee, or such greater number as the Board by by-law prescribes, constitutes a quorum.

OBJECTS AND POWERS OF THE CORPORATION

13.—(1) The objects of the Corporation are to assist in the promotion of community and industrial development of land in Ontario by the acquisition of land and the disposal of it to persons in the private and government sectors for residential, community, industrial, governmental and commercial development and, without limiting the generality thereof, in the carrying out of those objects the Corporation has power to,

- (a) purchase, lease, take in exchange or otherwise acquire lands or interests therein, together with any buildings or structures on the lands;
- (b) sell, lease, exchange, mortgage or otherwise dispose of the whole or any portion of the lands and all or any of the buildings or structures that are

then or may after be erected upon the lands and to take such payment or security therefor as may be necessary or desirable;

- (c) lend and invest money on security of real estate and to sell, mortgage, or otherwise dispose of mortgages;
- (d) subscribe for, purchase, invest in, sell, assign or otherwise deal in shares, stocks, bonds, debentures, notes and other securities of any government or municipal corporation, or of any corporation whose objects include the buying and selling of land; and
- (e) do anything that, in the opinion of the Board, can be done advantageously by the Corporation in connection with or ancillary to the carrying out of the objects of the Corporation set out in clauses *a*, *b*, *c* and *d*.

**Limitation
on
investments**

R.S.O. 1970.
c. 100

(2) The Corporation shall not invest in any of the securities mentioned in clause *d* of subsection 1 of a corporation that is a Crown agency within the meaning of *The Crown Agency Act* unless the board of directors of such corporation includes at least one person who is also a member of the Board.

**Incidental
powers**

R.S.O. 1970.
c. 89

14. The Corporation possesses as incidental and ancillary to its objects those powers contained in subsection 1 of section 24 of *The Corporations Act* except clauses *c*, *j*, *q*, *r* and *t* of that subsection.

**Expropria-
tion**
R.S.O. 1970.
c. 154

15. Subject to *The Expropriations Act*, the Corporation, for and in its own name, may, without the consent of the owner thereof, enter upon, take and expropriate any land or interest therein that it considers necessary for its use or purposes.

**Use of
services and
facilities of
ministries,
etc.**

16.—(1) In exercising its powers under this Act, the Corporation shall, where appropriate, make use of the services and facilities of any ministry, board, commission or agency of the Government of Ontario.

Staff
R.S.O. 1970.
c. 386

(2) The Corporation may engage persons under contract or otherwise or obtain the appointment under *The Public Service Act* of such persons as are considered necessary from time to time for the proper conduct of the affairs of the Corporation.

HEAD OFFICE AND CORPORATE SEAL

17. The Corporation shall have a head office at such ^{Head office} place within Ontario as the Lieutenant Governor in Council shall, from time to time, designate.

18. The Corporation shall have a seal which shall be ^{Seal} adopted by resolution or by-law of the Board.

FISCAL YEAR

19. The fiscal year of the Corporation commences on the ^{Fiscal year} 1st day of April in each year and ends on the 31st day of March in the following year.

LOANS AND ADVANCES

20.—(1) Subject to the approval of the Lieutenant ^{General borrowing powers} Governor in Council, the Corporation may borrow from time to time such sums of money as it may consider requisite for any of its purposes and, for the purpose of such borrowing, may issue notes, bonds, debentures and other securities bearing interest at such rate or rates, and payable as to principal, interest and premium, if any, at such time or times and in such manner and in such place or places in Canada or elsewhere, and in the currency of such country or countries, as the Corporation may determine, and such notes, bonds, debentures and other securities may be made redeemable in advance of maturity, at such time or times, and at such price or prices, and in such manner, and either with or without premium, as the Corporation may determine at the time of issue thereof.

(2) Where, pursuant to subsection 1, the Board, with the ^{Idem} approval of the Lieutenant Governor in Council, has passed a resolution authorizing the borrowing of money by the issue from time to time of notes, bonds, debentures or other securities maturing not later than five years from the respective dates thereof and bearing interest at a rate or rates not exceeding the maximum rate of interest specified in the resolution, the Board without any further approval of the Lieutenant Governor in Council may subsequently and from time to time authorize the issue of such notes, bonds, debentures or other securities, within the maximum principal amount prescribed by such resolution, bearing such respective dates, maturing not later than

five years from such respective dates, and bearing interest at such respective rates not exceeding the said maximum interest rate, as the Board, in its discretion, may from time to time determine.

Purposes of Corporation

- (3) The purposes of the Corporation, mentioned in subsection 1, without limiting the generality thereof, include,
 - (a) repayment on account of the advances by the Province of Ontario to the Corporation;
 - (b) payment in whole or in part of any notes, bonds, debentures or other securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances from the Province of Ontario to the Corporation;
 - (c) payment, refunding or renewal from time to time of the whole or any part of any loan raised or securities issued by the Corporation under this or any other Act;
 - (d) payment of the whole or any part of any loan or of any liability or of any notes, bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Corporation;
 - (e) payment of the whole or any part of any other liability or indebtedness of the Corporation; and
 - (f) carrying out any of the objects and powers of the Corporation referred to in section 13.

Resolution conclusive

- (4) Where a resolution of the Board authorizing the issue of securities contains a recital or declaration that the amount of the securities so authorized is necessary to realize the net sum required for the purposes of the Corporation, the recital or declaration is conclusive evidence of the facts stated therein.

Corporation may sell or pledge

- (5) The Corporation may sell or otherwise dispose of any such notes, bonds, debentures and other securities at such price or prices, and on such terms and conditions, as it considers advisable, and either at the face amount thereof or at less or more than the face amount thereof, and may charge, pledge, hypothecate, deposit or otherwise deal with any such securities as collateral security.

(6) Any such securities dealt with as collateral security when redelivered to the Corporation or its nominees on or after payment, satisfaction, release or discharge in whole or in part of any indebtedness or obligation for which such securities may have been given as collateral, or when the Corporation again becomes entitled to such securities, may be treated by the Corporation as unissued and may be issued, reissued, charged, pledged, hypothecated, deposited, dealt with as collateral security, sold or otherwise disposed of from time to time upon such terms and conditions as the Board considers advisable, or at its option, may be cancelled and fresh securities to the like amount and in like form may be issued in lieu thereof with the like consequences and upon such issue or reissue any person entitled thereto has the same rights and remedies as if the same had not been previously issued.

(7) The Corporation on such terms and conditions as it considers advisable may charge, pledge, hypothecate, deposit or otherwise deal with, as collateral security, any notes, bonds, debentures or other securities purchased by it under section 13.

(8) The notes, bonds, debentures and other securities of the Corporation shall be in such form or forms and in such denomination or denominations and shall be executed in such manner and by such persons as the Board may determine.

(9) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any security to which it is to be affixed and any signatures upon any such security and upon the coupons, if any, attached thereto may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

(10) The seal of the Corporation when so mechanically reproduced has the same force and effect as if manually affixed and such mechanically reproduced signatures are for all purposes valid and binding upon the Corporation notwithstanding that a person whose signature is so reproduced has ceased to hold office before the date of the security or before its issue.

21.—(1) The Treasurer of Ontario, with the approval of the Lieutenant Governor in Council and upon such terms and conditions as the Lieutenant Governor in Council may prescribe, may make loans to the Corporation and may acquire and hold as evidence thereof bonds, debentures, notes or other evidences of indebtedness of the Corporation.

Moneys

(2) Notwithstanding the provisions of section 30, the moneys required for the purposes of subsection 1 shall be paid out of the Consolidated Revenue Fund.

Government
authorized
to raise
funds for
purposes of
Corporation
R.S.O. 1970,
c. 166

22. The Lieutenant Governor in Council may raise by way of loan in the manner provided by *The Financial Administration Act* such sums as he considers requisite for the purposes of this Act, and the sums so raised may either be advanced to the Corporation or applied by the Treasurer of Ontario in the purchase of notes, bonds, debentures or other securities of the Corporation issued by the Corporation under this Act.

Advances
may be made
on terms and
conditions
agreed upon

23. All advances made by the Province of Ontario to the Corporation shall be made on such terms and conditions as are agreed upon between the Corporation and the Treasurer of Ontario, and without limiting the generality of the foregoing, the Corporation, in consideration of any advance, may,

- (a) issue and deliver to the Treasurer of Ontario notes, bonds, debentures or other securities of the Corporation for the same principal amount, maturing on the same date or dates, bearing interest at the same rate or rates, and payable as to both principal and interest in the same currency or currencies as the debentures or other securities of the Province of Ontario issued for the purpose of raising the money advanced by the Province of Ontario to the Corporation, and containing such other terms and conditions, if any, as to redemption in advance of maturity or otherwise as the Treasurer of Ontario approves; and
- (b) agree to reimburse the Province of Ontario for all charges and expenses incurred or to be incurred by the Province of Ontario in connection with the creation and issue of such debentures or other securities of the Province of Ontario and the payment from time to time of the interest thereon and the principal thereof whether at maturity or on redemption before maturity and of the amount of the premium, if any, on the redemption, and such other charges and expenses as the Province of Ontario incurs.

24.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time for any of the purposes of the Corporation, borrow by way of temporary loan from any chartered bank to which the *Bank Act* (Canada) applies, from any other bank which is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business or from any person such sums as the Corporation considered requisite, either by way of bank overdraft or loan or in any other manner whatsoever.

R.S.C. 1970,
c. B-1

(2) For the purposes of subsection 1, the Corporation may pledge as security, notes, bonds, debentures or other securities of the Corporation pending the sale thereof or in lieu of selling the same, or may pledge as security, bonds, debentures or other securities owned by the Corporation, or otherwise give such security as the Corporation determines, and any cheques, promissory notes or other instruments that may be necessary or desirable for the purposes of subsection 1 or this subsection may be executed in such manner as the Corporation determines.

25. Where the Legislature has appropriated money for the purposes of the Corporation, such money is payable out of such appropriation to the Corporation from time to time upon the requisition of the chairman of the Corporation and the direction of the Lieutenant Governor in Council, in such amounts and at such times as are stated in the requisition and direction, and this section has effect notwithstanding that there may be sums due from the Corporation to the Province of Ontario and notwithstanding anything in *The Financial Administration Act*.

R.S.O. 1970,
c. 166

GENERAL

26. The notes, bonds, debentures and other securities issued by the Corporation are authorized investments for the funds of a corporation to which *The Loan and Trust Corporations Act* or *The Insurance Act* apply and are authorized investments under *The Pension Benefits Act* and *The Trustee Act*.

Corporation
securities
authorized
investments
R.S.O. 1970,
cc. 254, 224,
342, 470

27.—(1) The Corporation may from time to time, for the sound and efficient management of its funds, in its discretion and on such terms and conditions as it may consider advisable, purchase, acquire, hold and sell or otherwise dispose of any of the following securities:

Management
of funds

1. The bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or Ontario or any other province of Canada.
2. The bonds, debentures or other evidences of indebtedness of corporations referred to in clauses *c*, *e*, *f*, *g*, *i* and *k* of subsection 1 of section 383 of *The Insurance Act* and in which joint stock insurance companies may invest their funds.
3. The deposit receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by any chartered bank to which the *Bank Act* (Canada) applies, or by any other bank which is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business.
4. The guaranteed investment certificates of any trust company that is registered under *The Loan and Trust Corporations Act*.

R.S.O. 1970,
c. 224

R.S.C. 1970,
c. B-1

R.S.O. 1970,
c. 254

Deposit of
funds

(2) The Corporation may deposit from time to time any part of its funds in any chartered bank to which the *Bank Act* (Canada) applies or in any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act* or with the Province of Ontario Savings Office, upon such terms and conditions and for such periods as the Corporation may consider expedient.

ANNUAL REPORT

Annual
report

28.—(1) The Corporation shall, after the close of each fiscal year, deliver to the Minister an annual report upon the affairs of the Corporation signed by the chairman and one other director of the Board, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Additional
reports

(2) In addition to making an annual report under subsection 1, the Corporation shall make to the Minister such other report on its affairs as the Minister from time to time may require.

AUDIT OF ACCOUNTS

Audit
of
accounts

29.—(1) The accounts and financial transactions of the Corporation shall be audited annually by an auditor or firm of auditors appointed by the Corporation and such auditor

or firm of auditors, so appointed, shall be under the direction of and report to the Provincial Auditor.

(2) A report on the audit shall be made by the Provincial Report Auditor to the Corporation and to the Minister.

(3) The expenses of such audits shall be fixed by the ^{Expenses of} Corporation, with the approval of the Lieutenant Governor ^{audits} in Council, and are payable by the Corporation as part of the costs of administration of the Corporation.

(4) The audited accounts of the Corporation shall form ^{Audit to form part of annual report} part of the annual report of the Corporation.

30. The moneys required for the purpose of defraying ^{Moneys} the operating expenses of the Corporation shall, until the 31st day of March, 1975, be paid out of the Consolidated Revenue Fund, and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

31. This Act comes into force on a day to be named by ^{Commencement} proclamation of the Lieutenant Governor.

32. This Act may be cited as *The Ontario Land Corporation Act, 1974.* ^{Short title}

BILL I33

An Act to establish
the Ontario Land Corporation

1st Reading

November 7th, 1974

2nd Reading

December 13th, 1974

3rd Reading

February 7th, 1975

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

Ontario. Legislative Assembly

CAZON

BILL 134

Government Bill

XB

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Employment Standards Act, 1974

THE HON. J. MACBETH
Minister of Labour



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The Bill updates, revises and consolidates the present law governing standards of employment and accords with the practices of the Employment Standards Branch of the Ministry of Labour.

The principal features of the Bill are as follows:

SECTION 1 — DEFINITIONS

1. The term "employment standard" is defined.
2. The definition of "wages" is more particularly set out.
3. The definition of "week" and "work week" is introduced to assist in administration.

PART I

SECTIONS 2-6 — GENERAL APPLICATION

1. The provisions respecting termination, pregnancy leave, equal pay and equal benefits will apply to the Crown, its agencies and boards.
2. Section 2 (3) provides that the exercise of certain powers do not require hearings under *The Statutory Powers Procedure Act, 1971*.
3. Section 5 (2) confers upon the Director the same power with respect to individual contractual benefits for vacations and holidays as he has with respect to collective agreements.
4. Section 6 provides that civil remedies are not affected by the Act.

PART II

SECTIONS 7-15 — GENERAL PROVISIONS

1. Section 7 provides for payment of all wages by cash or cheque, and the time and place of payment. The present Act deals only with the payment of minimum wages in cash or by cheque.
2. Section 10 (2) requires an employer to furnish a statement of the make-up of vacation pay which was not previously required.

PART III

SECTION 16 — HOMEMAKERS

This Part is unchanged.

PART IV

SECTIONS 17-22 — HOURS OF WORK

There are no changes except for housekeeping amendments.

PART V

SECTIONS 23-24 — MINIMUM WAGES

This Part is unchanged.

PART VI

SECTION 25 — OVERTIME PAY

1. The hours of work per week after which overtime is payable are reduced from forty-eight to forty-four.
2. Subsection 3 permits an employment standards officer to determine weekly hours and regular rate in cases where no proper records are kept.

PART VII

SECTIONS 26-28 — PUBLIC HOLIDAYS

1. The provisions permitting a substituted day as a holiday in lieu of a public holiday are expanded.
2. Section 26 (5) adds a provision giving an option to an employer in the hotel, etc., industry, in the case of a hospital, and where there is a continuous operation, to either pay holiday pay for work on the holiday, or pay regular pay and give another day as a holiday with pay.
3. Section 27 (2) provides that overtime hours and hours worked on a public holiday are not to be stacked. An employee will not be entitled to receive three times his regular pay for the week in which a public holiday occurs.

PART VIII

SECTIONS 29-32 — VACATIONS WITH PAY

There are no changes except for housekeeping amendments.

PART IX

SECTION 33 — EQUAL PAY FOR EQUAL WORK

The present principle is equal pay for the same work that requires equal skill, effort and responsibility. The new principle is equal pay for work that is substantially the same and that requires substantially the same skill, effort and responsibility.

PART X

SECTION 34 — EQUAL BENEFITS

The section prohibits distinctions, exclusions or preferences between employees because of age, sex or marital status under pension, life insurance, sickness, medical or hospital plans available to employees.

The section authorizes the Lieutenant Governor in Council to make regulations providing for exceptions to this general principle.

PART XI

SECTIONS 35-39 — PREGNANCY LEAVE

1. The previous exemption of an employer of twenty-four employees or less is repealed.
2. Section 36 grants a seventeen-week leave of absence (instead of the present twelve weeks) and permits the pregnant employee to choose the day leave commences.

The section makes further provision for shortening the length of leave.

3. Section 37 enables a pregnant employee to obtain a leave of absence in case of a medical condition that was not anticipated.
4. Section 39 enables an employment standards officer to require an employer to reinstate and pay compensation to an employee who wishes to return to work after the leave expires.

PART XII

SECTION 40 — TERMINATION OF EMPLOYMENT

1. There is no change in substance.
2. Subsection 6 of section 13 of the present Act is replaced by subsection 7 of section 40 which provides that where an employee is dismissed improperly and without notice, the employer is obliged to pay an amount equal to the wages the employee would have received during the notice period if the required notice had been given.

PART XIII

SECTIONS 41-56 — ADMINISTRATION

1. Section 42 (1) permits the Minister to appoint persons as referees to hear appeals from employment standards officers and difficult cases of wage claims.
2. Section 47 enables an employment standards officer to arrange for direct payment, settle a claim for or, in default of either, issue an order for payment by an employer of wages owed an employee up to \$4,000 plus a 10 per cent penalty. The present limit is \$2,000 plus the penalty.
3. Section 48 prevents an employer from retaining wages owed to employees who cannot conveniently be located. Such wages are to be paid to the Director in trust to be held for the employee or his estate or other person entitled thereto.
4. Section 49 enables an employee to request a review by the Director where an employment standards officer refuses to issue an order.
5. Section 50 permits an employer to appeal to a referee an order compelling payment to an employee.

6. Section 51 permits the Director to have a hearing by a referee of difficult questions or into alleged schemes to avoid this Act.
7. Section 54 permits the Director to issue a certificate of non-compliance with an order to pay and to enforce the order in the courts instead of having to prosecute and obtain an order for payment from a provincial court judge.

PART XIV

SECTIONS 57-64 — OFFENCES AND PENALTIES

1. Section 57 defines in detail and prohibits unfair employer practices against an employee.
2. Section 58 makes it an offence for an employer to make, keep or produce false employment records.
3. Section 59 increases the general penalty for a contravention of the Act to \$10,000 or six months in jail, or both. The present maximum is \$2,000 for an offence for which no other penalty is provided and there is no provision for imprisonment.
4. Section 60 (1) makes an officer, director or agent of an employer who participates in an offence guilty of the offence.

Section 60 (2) shifts to an officer, director or agent the onus of disproving his participation in a contravention of the Act or the regulations.

Section 60 (3) permits a judge to issue an order for payment of wages against an officer, director or agent who was a participant in the offence.

5. Sections 61 and 62 deal with matters of evidence.
6. Section 63 clarifies the limitation period of two years for recovery of wages.
7. Section 64 permits the Director to require an employee to use the arbitration process under collective agreements.

PART XV

SECTION 65 — REGULATIONS

There are no changes except for housekeeping amendments to conform with the new Act.

TRANSITIONAL SECTION

Section 66 brings into line with the forty-four hour work week all existing approvals for averaging hours over a period of more than one week. Existing approvals will be cancelled three months after the Act comes into force.

BILL 134**1974****The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION**1. In this Act,**Interpre-
tion

(a) “Deputy Minister” means the Deputy Minister of Labour;

(b) “Director” means the person appointed by the Minister as Director of Employment Standards for the purposes of this Act;

(c) “employee” includes a person who,

(i) performs any work for or supplies any services to an employer for wages,

(ii) does homework for an employer, or

(iii) receives any instruction or training in the activity, business, work, trade, occupation or profession of the employer,

and includes a person who was an employee;

(d) “employer” includes any person who as the owner, proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession, has control or direction of, or is directly or indirectly responsible for, the employment of a person therein, and includes a person who was an employer;

(e) “employment standard” means a requirement imposed upon an employer in favour of an employee by this Act or the regulations;

- (f) “employment standards officer” means a person appointed for the purposes of this Act, and includes the Director;
- (g) “homework” means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof in premises occupied primarily as living accommodation, and “home-worker” has a corresponding meaning;
- (h) “Minister” means the Minister of Labour;
- (i) “Ministry” means the Ministry of Labour;
- (j) “overtime rate” means the hourly rate of pay that an employee is entitled to receive for hours of work in excess of,
 - (i) the hours of work in a week prescribed in section 25 or the regulations, or
 - (ii) the regular hours of work in a day or a week under a contract of employment that under subsection 2 of section 4 prevails over the provisions of section 25,

and “overtime pay” has a corresponding meaning;

- (k) “premium rate” means the rate of pay to which an employee is entitled for each hour of employment on a public holiday, or a day that is deemed to be a public holiday, and “premium pay” has a corresponding meaning;
- (l) “public holiday” means New Year’s Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day;
- (m) “regular rate” means,

- (i) the wage rate of an employee for an hour of work in a regular non-overtime work week,
- (ii) where subclause i does not apply, the average hourly rate calculated by dividing the wages of an employee earned in a week by the number of hours the employee worked in that week where the employer has made and kept in accordance with this Act complete and accurate records thereof, or

- (iii) where subclauses i and ii do not apply, the hourly rate determined by an employment standards officer;
- (n) "regulations" means the regulations made under this Act;
- (o) "termination pay" means the amount of pay to which an employee is entitled under section 40;
- (p) "wages" means any monetary remuneration payable by an employer to an employee under the terms of a contract of employment, oral or written, express or implied, any payment to be made by an employer to an employee under this Act, and any allowances for room or board as prescribed in the regulations or under an agreement or arrangement therefor but does not include,
 - (i) tips and other gratuities,
 - (ii) any sums paid as gifts or bonuses that are dependent on the discretion of the employer and are not related to hours, production or efficiency,
 - (iii) travelling allowances or expenses,
 - (iv) contributions made by an employer to a medical, dental, hospital, accident, life, pension or welfare plan or fund or other similar benefits;
- (q) "week" means a period of seven consecutive days;
- (r) "work week" means a week of work established by the practice of the employer or determined by an employment standards officer. R.S.O. 1970, c. 147, s. 1, *amended*.

PART I

GENERAL APPLICATION

2.—(1) Parts IX, X, XI and XII apply to the Crown,^{Application of Act} every agency thereof and any board, commission, authority or corporation that exercises any functions assigned or delegated to it by the Crown. R.S.O. 1970, c. 147, ss. 12, 25 (6); 1972, c. 120, s. 1, *part, amended*.

Item (2) This Act applies to every contract of employment, oral or written, express or implied,

- (a) where the employment is for work or services to be performed in Ontario; or
- (b) where the employment is for work or services to be performed both in and out of Ontario and the work or services out of Ontario are a continuation of the work or services in Ontario.

Non-application of 1971, c. 47 (3) Part I of *The Statutory Powers Procedure Act, 1971* does not apply to the exercise of any power conferred by section 5, 12, 16, 18, 19, 24, subsection 3 of section 25 or section 30, 32, subsection 4 of section 34 or section 39, 47 or 49 of this Act. *New.*

Waiver, etc., to be null and void **3.** Subject to section 4, no employer, employee, employers' organization or employees' organization shall contract out of or waive an employment standard, and any such contracting out or waiver is null and void. R.S.O. 1970, c. 147, s. 3, *amended.*

Employment standard deemed minimum **4.—(1)** An employment standard shall be deemed a minimum requirement only. *New.*

Greater benefit to prevail **(2)** A right, benefit, term or condition of employment under a contract, oral or written, express or implied, or under any other Act or any schedule, order or regulation made thereunder that provides in favour of an employee a higher remuneration in money, a greater right or benefit or lesser hours of work than the requirement imposed by an employment standard shall prevail over an employment standard. R.S.O. 1970, c. 147, s. 9, *amended.*

Provisions of collective agreements R.S.O. 1970, c. 232 **5.—(1)** Where terms or conditions of employment in a collective agreement as defined in *The Labour Relations Act* confer a higher remuneration in money or a greater right or benefit for an employee respecting holidays than the provisions of Part VII, the terms or conditions of employment shall prevail. 1973, c. 172, s. 1, *amended.*

Terms and conditions that are not in collective agreements **(2)** Where the Director finds that terms or conditions of employment in a contract of employment oral or written, express or implied, that are not in a collective agreement confer a higher remuneration in money or a greater right or benefit for an employee respecting holidays than the provisions of Part VII, the terms or conditions of employment shall prevail. *New.*

Civil remedy not suspended or affected **6.** No civil remedy of an employee against his employer is suspended or affected by this Act. *New.*

PART II

GENERAL PROVISIONS

7.—(1) An employer shall pay to an employee all wages ^{Payment of wages} to which an employee is entitled under,

- (a) an employment standard; or
- (b) a right, benefit, term or condition of employment under a contract of employment, oral or written, express or implied, that prevails over an employment standard,

in cash or by cheque.

(2) All wages shall be paid at the work place of the ^{Place of payment of wages} employee, or at a place agreed upon by the employer and the employee.

(3) All wages due and owing to an employee shall be paid ^{Time of payment of wages} by an employer on the regular pay day of the employee as established by the practice of the employer.

(4) Any payment to which an employee is entitled upon ^{Payment on termination} termination of employment shall be paid by the employer to the employee not later than seven days after termination of employment. *New.*

8. Except as permitted by the regulations, no employer ^{No set-off, etc., to be claimed against wages} shall claim a set-off against wages, make a claim against wages for liquidated or unliquidated damages or retain, cause to be returned to himself, or accept, directly or indirectly, any wages payable to an employee. R.S.O. 1970, c. 147, s. 4, *amended*.

9. No employer shall dismiss or suspend an employee ^{Garnishment not grounds for dismissal} upon the ground that garnishment proceedings are or may be taken against the employee. R.S.O. 1970, c. 147, s. 5.

10.—(1) An employer shall furnish to an employee at the ^{Statement of wages} time wages are paid to the employee a statement in writing, which can be retained by the employee, setting forth,

- (a) the period of time or the work for which the wages are being paid;
- (b) the rate of wages to which the employee is entitled unless such information is furnished to the employee in some other manner;

- (c) the amount of the wages to which the employee is entitled;
- (d) the amount of each deduction from the wages of the employee and the purpose for which each deduction is made;
- (e) any living allowance or other payment to which the employee is entitled; and
- (f) the net amount of money being paid to the employee. R.S.O. 1970, c. 147, s. 33, *amended*.

**Statement
of vacation
pay**

(2) Unless the information is given to an employee in some other manner, an employer shall furnish to an employee at the time vacation pay is paid to the employee a statement in writing which can be retained by the employee setting forth,

- (a) the period of time or the work for which the vacation pay is being paid;
- (b) the amount of the wages upon which the vacation pay is being paid;
- (c) the amount of each deduction from the vacation pay and its purpose; and
- (d) the net amount of vacation pay being paid to the employee. *New.*

Records

11.—(1) An employer shall,

- (a) make and keep in Ontario or in a place out of Ontario authorized by the Director for a period of twenty-four months after work is performed or services are supplied by an employee complete and accurate records in respect of the employee showing,
 - (i) the employee's name and address,
 - (ii) the employee's date of birth, if the employee is a student under eighteen years of age,
 - (iii) the number of hours worked by the employee in each day and week,
 - (iv) the employee's wage rate and gross earnings,

- (v) the amount of each deduction from the wages of the employee and the purpose for which each deduction is made;
 - (vi) any living allowance or other payment to which the employee is entitled,
 - (vii) the net amount of money being paid to the employee, and
 - (viii) any documents or certificates relating to pregnancy leave under Part XI; and
- (b) make and keep in Ontario or in a place out of Ontario authorized by the Director for a period of five years after work is performed by an employee complete and accurate records in respect of the employee showing,
- (i) the employee's name and address,
 - (ii) the date of commencement of employment and the anniversary date thereof, and
 - (iii) the employee's wages during each pay period and the vacations with pay or payment under section 31. R.S.O. 1970, c. 147, s. 38 (1), *amended.*

(2) Subclause iii of clause *a* of subsection 1 does not apply Exception in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty-four hours a week. R.S.O. 1970, c. 147, s. 38 (2), *amended.*

12.—(1) Where before or after this Act comes into force Related activities, etc., may be treated as one employer associated or related activities, businesses, trades or under takings are or were carried on by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, under common control or direction, and a person is or was an employee of such corporations, individuals, firms, syndicates or associations, or any combination thereof, an employment standards officer may treat the corporations, individuals, firms, syndicates or associations as one employer for the purposes of this Act. R.S.O. 1970, c. 147, s. 6, *amended.*

Individual liability

(2) The corporations, individuals, firms, syndicates or associations treated as one employer shall be individually liable for any contravention of this Act and the regulations.
New.

Interpre-
tation

13.—(1) In this section,

- (a) “business” includes an activity, trade or undertaking, or a part or parts thereof;
- (b) “sells” includes leases, transfers or any other manner of disposition and “sale” has a corresponding meaning.

Continuity of
employment

(2) Where an employer sells his business to a purchaser who employs an employee of the employer, the employment of the employee shall not be terminated by the sale, and the period of employment of the employee with the employer shall be deemed to have been employment with the purchaser for the purposes of Parts VII, VIII, XI and XII.

Part XII
to be
complied
with

(3) Where an employer sells his business to a purchaser who does not employ an employee of the employer, the employer shall comply with Part XII. R.S.O. 1970, c. 147, s. 7, *amended*.

Priority
of claims
R.S.C. 1970,
c. B-4

14. Notwithstanding the provisions of any other Act and except upon a distribution made by a trustee under the *Bankruptcy Act* (Canada), wages shall have priority to the claims or rights and be paid in priority to the claims or rights, including the claims or rights of the Crown, of all preferred, ordinary or general creditors of the employer to the extent of \$2,000 for each employee. R.S.O. 1970, c. 147, s. 8 (1), *amended*.

Vacation pay
deemed to
be held in
trust

15. Every employer shall be deemed to hold vacation pay accruing due to an employee in trust for the employee whether or not the amount therefor has in fact been kept separate and apart by the employer and the vacation pay becomes a lien and charge upon the assets of the employer that in the ordinary course of business would be entered in books of account whether so entered or not. R.S.O. 1970, c. 147, s. 8 (2), *amended*.

PART III

HOMWORKERS

Application
for permit

16.—(1) An application for a permit to employ home-workers shall be made by the employer to the Director.

(2) No person shall employ a homeworker without a per- ^{Permit}mit therefor issued by the Director.

(3) The Director may,

(a) issue a permit on such terms and conditions as he <sup>Terms,
conditions,
revocation
and
suspension
of permit</sup>considers advisable;

(b) revoke or suspend a permit for a breach of a term or condition thereof, or where the holder is liable for a nuisance within the meaning of *The Public Health Act*, or for a contravention of any Act. <sup>R.S.O. 1970,
c. 377</sup>

(4) Every employer shall keep a register and enter <sup>Register of
homeworkers</sup>therein the name and address of every homeworker to whom the employer gives homework, and the wages paid therefor. R.S.O. 1970, c. 147, s. 32, *amended*.

PART IV

HOURS OF WORK

17. Except as otherwise provided in this Part, and subject to any schedule in force under *The Industrial Standards Act*, the hours of work of an employee shall not exceed eight in the day and forty-eight in the week. <sup>Maximum working hours
R.S.O. 1970,
c. 221</sup>
R.S.O. 1970, c. 147, s. 14 (1), *amended*.

18. An employer may, with the approval of the Director, <sup>Variation
of working
day</sup>and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty-eight hours in a week. R.S.O. 1970, c. 147, s. 15 (1), *amended*.

19. In case of an accident or in case of work urgently required to be done to machinery or plant, the employer may require the limit of hours of work prescribed by section 17 or approved under section 18 to be exceeded but only so far as may be necessary to avoid serious interference with the ordinary working of the establishment. <sup>Exceeding
maximum
in case of
accident</sup>
R.S.O. 1970, c. 147, s. 16 (4), *amended*.

20.—(1) The Director may issue a permit authorizing <sup>Permits
for excess
hours</sup>hours of work in excess of those prescribed by section 17 or approved under section 18, but the excess hours of work shall not exceed,

- (a) in the case of an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman or other person who, in the opinion of the Director, is engaged in a similar occupation, twelve hours in each week for each employee; and
- (b) in the case of all other employees, 100 hours in each year for each employee. R.S.O. 1970, c. 147, s. 16 (1), *amended*.

Idem

(2) Where the Director is satisfied that the work or the perishable nature of raw material being processed requires hours of work in excess of those permitted under subsection 1, he may issue a permit therefor. R.S.O. 1970, c. 147, s. 16 (2), *amended*.

Permit
does not
obligate
employee

(3) The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent. R.S.O. 1970, c. 147, s. 18 (2), *amended*.

Terms and
conditions
of permit

(4) A permit issued under this section shall contain such terms, conditions and limitations as the Director prescribes. R.S.O. 1970, c. 147, s. 17, *amended*.

Agreements
subject to
maximums

21. Except as otherwise provided in this Part, no employer may require or permit work, and no employee may work or agree to work, any hours that exceed the maximum hours established under this Act. R.S.O. 1970, c. 147, s. 18 (1), *amended*.

Eating
periods

22. Every employer shall provide eating periods of at least one-half hour, or such shorter period as is approved by the Director, at such intervals as will result in no employee working longer than five consecutive hours without an eating period. R.S.O. 1970, c. 147, s. 20, *amended*.

Statutory
agreement
for minimum
wage

23. Every employer who permits any employee to perform work or supply any services in respect of which a minimum wage is established shall be deemed to have agreed to pay to the employee at least the minimum wage established under this Act. R.S.O. 1970, c. 147, s. 22, *amended*.

PART V

MINIMUM WAGES

24. For the purpose of enabling a handicapped person to ^{Handicapped employees} be gainfully employed, the Director may, upon the application of the handicapped person or his employer and with the consent of the handicapped person, his parent or guardian, authorize the employment of such handicapped person to perform such work as is authorized at a wage lower than the minimum wage prescribed under this Act. R.S.O. 1970, c. 147, s. 23, *amended*.

PART VI

OVERTIME PAY

25.—(1) Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty-four hours in any week, he shall be paid for each hour worked in excess of forty-four hours overtime pay at an amount not less than one and one-half times the regular rate of the employee.

(2) In complying with subsection 1, no employer shall ^{Idem} reduce the regular rate of wages payable to an employee. 1973, c. 172, s. 3, *amended*.

(3) Where an employer has not made and kept complete and accurate records in respect of an employee pursuant to clause *a* of subsection 1 of section 11, an employment standards officer may determine the regular rate of and the number of hours worked by the employee in each day and week. *New.*

PART VII

PUBLIC HOLIDAYS

26.—(1) This section does not apply to an employee ^{Application} who,

- (a) is employed for less than three months;
- (b) has not earned wages on at least twelve days during the four work weeks immediately preceding a public holiday;
- (c) fails to work his scheduled regular day of work preceding or his scheduled regular day of work following a public holiday;

(d) has agreed to work on a public holiday and who, without reasonable cause, fails to report for and perform the work; or

(e) is employed under an arrangement whereby the employee may elect to work or not when requested so to do. 1973, c. 172, s. 7, *part, amended.*

Holiday
with pay

(2) Subject to subsections 3, 4 and 5, an employer shall give to an employee a holiday on and pay to the employee his regular wages for each public holiday.

Working day
substituted
for holiday

(3) Where a public holiday falls upon a working day for an employee, an employer may with the agreement of the employee or his agent substitute another working day for the public holiday which day shall not be later than the next annual vacation of the employee, and the day so substituted shall be deemed to be the public holiday.

Holiday
that is a
non-working
day

(4) Where a public holiday falls on a non-working day for an employee or in his vacation an employer shall,

(a) with the agreement of the employee or his agent pay the employee his regular wages for the public holiday; or

(b) designate a working day that is not later than the next annual vacation of the employee and the day so designated shall be deemed to be the public holiday. 1973, c. 172, s. 7, *part, amended.*

Holiday
pay

(5) Notwithstanding subsection 3, where an employee is employed in a hotel, motel, tourist resort, restaurant, tavern, continuous operation or a hospital, and the employee is required to work and works on a public holiday, the employer shall,

(a) pay the employee in accordance with subsection 1 of section 27; or

(b) pay the employee for each hour worked on a public holiday an amount not less than his regular wages and give to the employee a holiday on his first working day immediately following his next annual vacation or on a working day agreed upon and pay him his regular wages for that day.

Interpre-
tation

(6) For the purposes of subsection 5,

(a) "continuous operation" means that part of an establishment, industry or service in which in each seven day period operations once commenced

normally continue day and night without cessation until the completion of the regularly scheduled operations for that period;

- (b) "hospital" means a hospital as defined in *The Hospital Labour Disputes Arbitration Act.* New. ^{R.S.O. 1970, c. 208}

27.—(1) Subject to subsection 5 of section 26, where an employee works on a public holiday, the employer shall pay to the employee for each hour worked a premium rate of not less than one and one-half times his regular rate and, where the employee is entitled to the holiday with pay, his regular wages in addition thereto. 1973, c. 172, s. 7, *part, amended.*

(2) Where an employee works on a public holiday, the hours the employee works on the public holiday shall not be taken into consideration in calculating any overtime pay to which the employee is entitled for the work week in which the public holiday occurs. *New.*

28. Where the employment of an employee ceases before the day that is substituted, designated or given for the public holiday under subsection 3, clause b of subsection 4, or clause b of subsection 5, of section 26, the employer shall pay to the employee in addition to any other payment to which the employee is entitled upon the ceasing of employment his regular wages for that day. *New.*

PART VIII

VACATION WITH PAY

29.—(1) Every employer shall give to each employee a vacation with pay of at least two weeks upon the completion of each twelve months of employment.

(2) The amount of pay for such vacation shall be not less than an amount equal to 4 per cent of the wages of the employee in the twelve months of employment for which the vacation is given and in calculating wages no account shall be taken of any vacation pay previously paid. 1973, c. 172, s. 5, *part, amended.*

30.—(1) The employer shall determine the period when an employee may take the vacation to which he is entitled to under section 29, which may be a two week period or two periods of one week each, but in any case the employee shall be given his vacation not later than ten months after the end of the twelve month period for which the vacation was given.

Director
may require
employer
to pay

(2) Notwithstanding subsection 1, the Director may require an employer to pay to an employee at any time the vacation pay to which the employee is entitled under section 29. 1973, c. 172, s. 7, *part, amended.*

Idem

(3) Subsection 2 applies notwithstanding that there is a strike or lock-out as a result of a labour dispute. *New.*

Vacation
pay

31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 4 per cent of the wages of the employee in any twelve month period or periods or part thereof and in calculating wages no account shall be taken of any vacation pay previously paid. 1973, c. 172, s. 5, *part, amended.*

Agreements
respecting
vacation or
vacation
pay

32. Any agreement between an employer and an employee or employees or his or their agent respecting the method of providing funds for paying vacation pay, or payment in lieu of vacation, or of any arrangements for the taking of vacation, is subject to the approval of the Director. 1973, c. 172, s. 5, *part.*

PART IX

EQUAL PAY FOR EQUAL WORK

Equal pay
for equal
work

33.—(1) No employer or person acting on behalf of an employer shall differentiate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or *vice versa*, for substantially the same kind of work performed in the same establishment, the performance of which requires substantially the same skill, effort and responsibility and which is performed under similar working conditions, except where such payment is made pursuant to,

- (a) a seniority system;
- (b) a merit system;
- (c) a system that measures earnings by quantity or quality of production; or
- (d) a differential based on any factor other than sex.

Pay not to
be reduced

(2) No employer shall reduce the rate of pay of an employee in order to comply with subsection 1.

(3) No organization of employers or employees or its agents shall cause or attempt to cause an employer to agree to or to pay to his employees rates of pay that are in contravention of subsection 1.

(4) Where an employment standards officer finds that an employer has failed to comply with subsection 1, the employment standards officer may determine the amount of moneys owing to an employee because of such non-compliance, and such amount shall be deemed to be unpaid wages. R.S.O. 1970, c. 147, s. 25 (1-4), *amended*.

PART X

EQUAL BENEFITS

34.—(1) In this Part, “benefits” include any retirement, pension, life insurance, income, disability, sickness, medical or hospital payments of a monetary kind to which an employee, his survivors or dependants are or may be entitled, directly or indirectly, under a plan, fund or arrangement provided, furnished or offered by an employer,

- (a) in accordance with a term or condition of employment; or
- (b) as a privilege of employment and in which benefits an employee may elect to participate whether the employer is or is not required to contribute to or under the plan, fund or arrangement.

(2) Except as provided in the regulations, no employer or person acting on behalf of an employer shall differentiate or make any distinction, exclusion or preference between his employees or any class or classes of his employees because of their age, sex or marital status in respect of any benefits or contributions.

(3) No organization of employers or employees or their agents shall cause or attempt to cause an employer, directly or indirectly, to act contrary to subsection 2.

(4) Where, in the opinion of the Director, an employer, a person acting on behalf of an employer or an organization of employers or employees or their agents may have acted contrary to this section, the Director may exercise the power conferred by subsection 1 of section 51, and section 51 applies *mutatis mutandis*.

Regulations (5) The Lieutenant Governor in Council may make regulations respecting any matter or thing necessary or advisable to carry out the intent and purpose of this Part, and, without restricting the generality of the foregoing, may make regulations,

- (a) exempting any fund, plan or arrangement or any part thereof that provides any benefits to an employee, his survivors or dependants or any employer or employee or a class thereof from the application of this Part or any provision thereof;
- (b) permitting an employer to provide a benefit that differentiates or makes a distinction, exclusion or preference between employees or a class thereof or their survivors or dependants in respect of the terms, conditions, exclusions or privileges of a benefit or contribution because of the age, sex or marital status of an employee;
- (c) providing the terms or conditions under which an employee shall be entitled to a benefit, direct or indirect, under any plan, fund or arrangement;
- (d) defining any expression, other than "benefits", used in this Part or in the regulations under this Part.
New.

PART XI

PREGNANCY LEAVE

Pregnancy leave

35. No employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under section 36, but the employer may require the employee to commence a leave of absence pursuant to section 36 at such time as the duties of her position cannot reasonably be performed by a pregnant woman or the performance of her work is materially affected by the pregnancy. 1972, c. 120, s. 1, *part, amended.*

When leave
to be taken

36.—(1) An employee who has been employed by her employer for a period of at least twelve months, whether such employment commenced before or after the coming into force of this Act, and is pregnant shall be entitled upon her application therefor to a leave of absence of at least seventeen weeks from her employment or such shorter leave of absence as the employee may request commencing during the period of eleven weeks immediately preceding the estimated day of her delivery.

(2) Notwithstanding subsection 1 and subject to sub-^{Leave after delivery} section 5, where the actual date of her delivery is later than the estimated day of her delivery, the leave of absence shall not end before the expiration of six weeks following the actual date of her delivery.

(3) The employee shall give her employer two weeks^{Notice} notice in writing of the day upon which she intends to commence her leave of absence and furnish her employer with the certificate of a legally qualified medical practitioner stating that she is pregnant and giving the estimated day upon which delivery will occur in his opinion.

(4) Subject to subsection 5, an employee may, with the ^{Leave may be} consent of her employer, shorten the duration of the leave of ^{shortened} absence requested under subsection 1.

(5) An employee may shorten the duration of the six^{Furnishing} week period mentioned in subsection 2 upon giving her^{certificate} employer one week's notice of her intention so to do and furnishing her employer with the certificate of a legally qualified medical practitioner stating that she is able to resume her work. 1972, c. 120, s. 1, *part, amended*.

37. An employee who does not apply for leave of absence under section 36, and who is otherwise entitled to pregnancy^{Leave where employee ceases work} leave thereunder, shall be entitled to and shall be granted leave of absence in accordance with section 36 upon providing her employer before the expiry of two weeks after she ceased to work with a certificate of a legally qualified medical practitioner stating that she was not able to perform the duties of her employment because of a medical condition arising from her pregnancy, and giving the estimated day upon which, in his opinion, delivery will occur or the actual date of her delivery. *New.*

38.—(1) An employee who intends to resume her employment on the expiration of a leave of absence granted to her under this Part shall so advise her employer and on her return to work her employer shall reinstate the employee to her position or provide her with alternative work of a comparable nature at not less than her wages at the time her leave of absence began and without loss of seniority or benefits accrued to the commencement of her leave of absence. 1972, c. 120, s. 1, *part, amended*.

(2) Where the employer has suspended or discontinued operations during the leave of absence and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to her

employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time her leave of absence began with no loss of seniority or benefits accrued to the commencement of her leave of absence, and in the absence of such a system or practice shall reinstate the employee in accordance with subsection 1. *New.*

Employment
standards
officer may
make order

39. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director in trust for the employee. *New.*

PART XII

TERMINATION OF EMPLOYMENT

Notice of
termination

40.—(1) No employer shall terminate the employment of an employee who has been employed for three months or more unless he gives,

- (a) one week's notice in writing to the employee if his period of employment is less than two years;
- (b) two weeks notice in writing to the employee if his period of employment is two years or more but less than five years;
- (c) four weeks notice in writing to the employee if his period of employment is five years or more but less than ten years; and
- (d) eight weeks notice in writing to the employee if his period of employment is ten years or more,

and such notice has expired. R.S.O. 1970, c. 147, s. 13 (1), *amended.*

Idem

(2) Notwithstanding subsection 1, the notice required by an employer to terminate the employment of fifty or more employees in any period of four weeks or less shall be given in the manner and for the period prescribed in the regulations, and until the expiry of such notice the termination shall not take effect. R.S.O. 1970, c. 147, s. 13 (2).

(3) Subsections 1 and 2 do not apply to,

Exceptions

- (a) an employee employed for a definite term or task;
 - (b) an employee who is temporarily laid off, as defined in the regulations;
 - (c) an employee who has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer;
 - (d) a contract of employment that is or has become impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance; or
 - (e) an employee employed in an activity, business, work, trade, occupation or profession, or any part thereof, that is exempted by the regulations.
- R.S.O. 1970, c. 147, s. 13 (3).

(4) Notwithstanding clause *d* of subsection 3, subsections ^{Application of subss. 1, 2} 1 and 2 shall apply to an employee whose contract of employment is or has become impossible of performance or frustrated by an order, direction or notice made, given or issued against an employer under *The Environmental Protection Act, 1971*, 1971, c. 86 1973, c. 172, s. 2.

(5) Where an employer is required to give the notice referred to in subsection 2 he shall co-operate with the Minister during the period of the notice in any action or program intended to facilitate the re-establishment in employment of the employees whose employment is to be terminated. R.S.O. 1970, c. 147, s. 13 (4).

(6) Where the notice referred to in subsection 1 or 2 ^{Rate of wages, etc., not to be altered} has been given,

- (a) no employer shall alter the rates of wages or any other term or condition of employment of any employee to whom notice has been given;
- (b) an employer shall pay to the employee during the period of notice the wages the employee is entitled to receive which in no case shall be less than his regular wages for a regular non-overtime work week; and
- (c) upon the expiry of the notice, the employer shall pay to the employee any wages or vacation pay to which he is entitled. R.S.O. 1970, c. 147, s. 13 (5), amended.

Where
employment
terminated
contrary
to section

(7) Where the employment of an employee is terminated contrary to this section, the employer shall pay the employee termination pay of an amount equal to the wages that the employee would have been entitled to receive at his regular rate for a regular non-overtime work week for the period of notice prescribed by subsection 1 or 2, and any wages to which he is entitled. *New.*

Notice by
employee

(8) An employee to whom notice has been given under subsection 2 shall not terminate his employment until after the expiry of,

(a) one week's notice in writing to the employer if the period of employment is less than two years; or

(b) two weeks notice in writing to the employer if the period of employment is two years or more,

unless his employer has been guilty of a breach of the terms and conditions of employment. R.S.O. 1970, c. 147, s. 13 (9, 10), *amended.*

PART XIII

ADMINISTRATION

Minister
responsible
for adminis-
tration

41.—(1) The Minister is responsible for the administration of this Act. R.S.O. 1970, c. 147, s. 2 (1).

Director
to be
appointed

(2) The Minister shall appoint a person to be the Director of Employment Standards for the purposes of the general administration of this Act and the regulations including the supervision and direction of employment standards officers. R.S.O. 1970, c. 147, s. 2 (2), *amended.*

Appointment
of
employment
standards
officers
R.S.O. 1970,
c. 386

(3) Such persons as are considered necessary to enforce this Act and the regulations may be appointed as employment standards officers under *The Public Service Act.* *New.*

Acting
Director

(4) Where the Director is absent or unable to act or where the office is vacant, the powers and duties of the Director shall be exercised and performed by an employee of the Ministry designated by the Minister. R.S.O. 1970, c. 147, s. 11, *amended.*

Appointment
of referees

42.—(1) The Minister shall appoint during his pleasure such persons to a panel of referees as he considers necessary for the purposes of this Act.

(2) A referee shall receive such remuneration and expenses ^{Remuneration} as the Lieutenant Governor in Council may determine. *New.*

43.—(1) The Director may exercise the powers conferred ^{Powers and duties of Director} and shall perform the duties imposed upon him under this Act.

(2) The Director may authorize an employment standards ^{Authority to exercise power} officer orally or in writing to exercise a power conferred upon the Director under this Act.

(3) An employment standards officer may exercise the ^{Powers and duties of employment standards officer} powers conferred and shall perform the duties imposed upon him under this Act. *New.*

44.—(1) The Deputy Minister shall issue a certificate of ^{Certificate of appointment} bearing his signature or a facsimile thereof to every employment standards officer.

(2) Every employment standards officer, in the exercise of ^{Production of certificate} any of his powers or the performance of any of his duties under this Act, shall produce his certificate of appointment upon request. *New.*

45.—(1) An employment standards officer may, for the ^{Powers of employment standards officer} purpose of ensuring that the provisions of this Act and the regulations are being complied with,

(a) subject to subsection 2, enter in or upon the lands or premises of a person at any reasonable time or times without a warrant for the purpose of carrying out an inspection, audit or examination;

(b) require the production for inspection, audit or examination of all books of account, documents, vouchers, payrolls, records, letters patent, by-laws, minutes of directors' meetings, or documents that are or may be relevant to the inspection, audit or examination;

(c) upon giving a receipt therefor, remove any books, papers, records or documents examined under clause b for the purpose of making copies or extracts of such books, papers, documents, or things, but such copying shall be carried out with reasonable dispatch and the books, papers, records or documents shall be promptly returned thereafter to the person who produced or furnished them;

(d) make any inquiries of any person separate or apart from another person that are or may be relevant to the inspection, audit or examination.

Entry into dwelling

R.S.O. 1970,
c. 450

(2) No employment standards officer shall enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*. R.S.O. 1970, c. 147, s. 40, *amended*.

Employment
standards
officer not
competent or
compellable
as witness

(3) No employment standards officer is a competent or compellable witness in a civil suit or proceeding respecting any information, material or statements acquired, furnished, obtained, made or received under the powers conferred under this Act except for the purposes of carrying out his duties under this Act.

Production of
documents

(4) No employment standards officer shall be compelled or required to produce in a civil suit or proceeding any document, extract, report, material or statement acquired, furnished, obtained, made or received under the powers conferred under this Act except for the purposes of carrying out his duties under this Act. *New*.

Obstruction

46.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an employment standards officer in the exercise of a power or the performance of a duty under this Act.

Assistance
to officer

(2) Every person shall furnish all necessary means in his power to facilitate any entry, production, inspection, audit, examination or inquiry by an employment standards officer in the exercise of a power or the performance of a duty under this Act.

Production
of records

(3) No person shall neglect or refuse to produce all books, ledgers, vouchers, payrolls, records, letters patent, minutes of directors' meetings, or documents that are or may be relevant to an inspection, audit or examination. *New*.

Powers

47.—(1) Where an employment standards officer finds that an employee is entitled to any wages from an employer, he may,

(a) arrange with the employer that the employer pay directly to the employee the wages to which the employee is entitled;

(b) receive from the employer on behalf of the employee any wages to be paid to the employee as the result of a compromise or settlement; or

(c) issue an order in writing to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled and such order shall provide in addition for payment by the employer to the Director of a penalty of 10 per cent of the wages or the sum of \$25, whichever is the greater, provided that the order shall not order the employer to pay a sum exceeding \$4,000 for an employee.

(2) Where an employment standards officer issues an order under subsection 1, the order shall contain or have attached thereto information indicating the nature of the amount to be paid to an employee. Contents of order

(3) An order issued under subsection 1 may order an employer to pay wages to one or more than one employee to which one or more than one employee is entitled for one or more than one failure to comply with a contract or more than one contract of employment or with this Act and the regulations. Idem

(4) An order issued under subsection 1 shall be delivered to the employer by registered mail addressed to the employer at his or its last known place of business or served personally in the case of an individual and if the employer is a corporation upon the president, vice-president, secretary, treasurer, director, manager or person in charge of any branch of the corporation. Delivery or service of order

(5) A certificate of the Director certifying that the order was served upon or sent by registered mail to the employer and accompanied by a true copy of the order is admissible as evidence of the issue, service, mailing and receipt of the order. Certificate of service

(6) Every employer to whom an order is issued under subsection 1 shall comply with it in accordance with its terms. R.S.O. 1970, c. 147, s. 34, *amended*. Compliance with order

48.—(1) Where an employer has made an arrangement with an employment standards officer for the payment of wages to an employee under clause *a* of subsection 1 of section 47, or an employment standards officer has received wages from an employer for or on behalf of an employee under clause *b* of subsection 1 of section 47, and the employee cannot be conveniently located, the employer shall pay the wages to the Director in trust. Payment to Director in trust

(2) Where wages have been received or collected for or on behalf of an employee by the Director in trust and the Wages to be held in trust

employee cannot be located, the wages shall be vested in and held in trust for Her Majesty and paid into the Consolidated Revenue Fund but may without interest thereon be paid out to the employee, his estate, or such other person as the Director considers is entitled thereto. *New.*

Order
may be
refused

49.—(1) Where, following a complaint in writing by an employee, an employment standards officer finds that an employer has paid the wages to which an employee is entitled under this Act he may refuse to issue an order to an employer and upon refusing to do so shall advise the employee of the refusal by prepaid letter addressed to the employee at his last known address.

Review of
refusal to
issue order

(2) An employee who considers himself aggrieved by the refusal to issue an order to an employer may apply to the Director in writing within fifteen days of the date of the mailing of the letter mentioned in subsection 1 for a review of the refusal and the Director shall cause the complaint to be reviewed by an employment standards officer who may exercise any power conferred under subsection 1 of section 47 or may refuse to issue an order, in which case he shall advise the employee of the refusal in accordance with subsection 1. *New.*

Review
of order

50.—(1) An employer who considers himself aggrieved by an order made under section 39 or 47, upon paying the wages ordered to be paid and the penalty thereon, if any, may, within a period of fifteen days after the date of delivery or service of the order, or such longer period as the Director may for special reasons allow and provided that the wages have not been paid out pursuant to subsection 2 of section 53, apply for a review of the order by way of a hearing.

Application
for review

(2) An application for review shall be made in writing to the Director and shall specify the grounds for the application.

Hearing

(3) The review shall be heard as soon as is practicable by a referee selected by the Director from the panel of referees.

Parties

(4) The employer, the employment standards officer from whose order the application for review is taken and such other persons as the referee may specify are parties to an application for review under this section and on the review the employer shall be the applicant and the employment standards officer and such other persons specified by the referee, if any, shall be the respondents.

Persons to
represent
groups

(5) Where a group or groups of persons having the same or substantially the same interest may be affected by the find-

ings or opinions of the referee, the referee may specify one or more of the persons comprising the group or groups to represent the group or groups and the one or more so specified are parties to the review.

(6) On a review under this section, the referee may substitute his findings or opinions for those of the employment standards officer who issued the order being reviewed and may amend, rescind or affirm the order. Powers of referee

(7) A decision of the referee under this section is final and binding upon the parties thereto and such other parties as the referee may specify. R.S.O. 1970, c. 147, s. 34, *part, amended.* Decision final and binding

51.—(1) Where an employment standards officer reports to the Director that an employer may have failed to pay the wages owing to an employee under this Act or to comply with this Act and the regulations, or is of the opinion that an act, agreement, arrangement or scheme is intended to have or has the effect, directly or indirectly, of defeating the true intent and purpose of this Act and the regulations, the Director may appoint a referee selected by him from the panel of referees who shall hold a hearing. Appointment of referee

(2) The referee holding the hearing under subsection 1, may, *mutatis mutandis*, exercise the powers conferred upon an employment standards officer under this Act and in addition thereto or substitution therefor, where the referee determines that an act, agreement, arrangement or scheme is intended to have or has the effect, directly or indirectly, of defeating the true intent and purpose of this Act and the regulations, he shall state his findings of fact and issue to and cause to be served upon such person as he may direct an order requiring such person to cease and desist from the act, agreement, arrangement or scheme and may order what action, if any, the person shall take or what he shall refrain from doing in order to comply with this Act and the regulations. Powers of referee

(3) Every employer or person to whom an order is given under subsection 2 shall comply with it in accordance with its terms. Compliance with order

(4) The order of the referee is final and not subject to review under section 50. R.S.O. 1970, c. 147, ss. 10, 34, *part, amended.* Decision final and binding

52.—(1) Where the Director has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to an employer who is liable to make Payment to Director

any payment under this Act, he may, by registered letter or by a letter served personally, demand that the person pay the moneys otherwise payable to the employer in whole or in part to the Director in trust on account of the liability under this Act. R.S.O. 1970, c. 147, s. 35 (1), *amended*.

**Receipt of
Director**

(2) The receipt of the Director for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. R.S.O. 1970, c. 147, s. 35 (2).

**Liability
to pay**

(3) Every person who has discharged any liability to an employer who is liable to make a payment under this Act without complying with a demand under this section is liable to pay an amount equal to the liability discharged or the amount that he was required under this section to pay, whichever is the lesser. *New.*

**Payment to
employee**

53.—(1) Where wages are received under clause *b* of subsection 1 of section 47, the Director shall pay to the employee or employees the wages received on his or their behalf.

Idem

(2) Where wages have been paid by an employer under an order issued under clause *c* of subsection 1 of section 47, and no application for review has been made to the Director under section 50 within a period of fifteen days from the date of delivery of the order or such longer period as the Director has allowed, the Director shall pay to the employee or employees the wages obtained on his or their behalf.

**Payment
after review**

(3) Where an application for review under section 50 has been made to the Director, the Director shall pay to the employee or the employees the wages owing, if any, in accordance with the decision of the referee and shall pay to the employer any moneys to which the employer is entitled under the decision.

**Moneys to be
distributed
rateably**

(4) Where the moneys received by the Director under this Act are insufficient to pay the wages due employees of an employer in full, the Director shall distribute the moneys received by him, including any penalty, rateably among those employees on whose behalf the moneys were received.

**No action
to lie**

(5) No action or proceeding lies or shall be instituted against the Director for acting in compliance with this section.

**Certificate
of order**

54.—(1) Where an order has been made under this Act requiring an employer to pay any moneys to the Director for or on behalf of an employee or employees, the Director may issue a certificate thereof and cause the same to be filed

in a court of competent jurisdiction and thereupon the certificate shall be enforceable as a judgment or order of the court at the instance and in favour of the Director in the same manner as a judgment or order of the court.

(2) The Director shall send a copy of the certificate to the employer by registered mail and advise the employer of the date the certificate was filed. *New.*

55.—(1) The Director, for any purpose relating to the administration or enforcement of this Act and the regulations, may, by registered letter addressed to an employer at his or its last known place of business or by demand served personally in the case of an individual and if the employer is a corporation upon the president, vice-president, secretary, treasurer or a director or the manager or person in charge of any branch of the corporation require the production for inspection, audit or examination of such books, papers, records or documents within such time and at such place as are stipulated in such letter or demand. R.S.O. 1970, c. 147, s. 41 (1), *amended.*

(2) No employer shall neglect or refuse to produce the books, papers, records or documents at the time and place stipulated in the letter or demand. *New.*

(3) A certificate of the Director certifying that the letter or demand was served upon or sent by registered letter to the employer to whom it was addressed, accompanied by a true copy of the letter or demand, is admissible as evidence of the service, mailing and receipt of the notice. R.S.O. 1970, c. 147, s. 41 (2), *amended.*

56. The Director may require an employer to post and keep posted a notice relating to the administration or enforcement of this Act or the regulations in a conspicuous place where it is most likely to come to the attention of his employees, and the employer shall post and keep posted any such notice. R.S.O. 1970, c. 147, s. 37, *amended.*

PART XIV

OFFENCES AND PENALTIES

57.—(1) No Employer shall,

(a) dismiss or threaten to dismiss an employee;

(b) discipline or suspend an employee;

No
discipline,
dismissal,
etc., by
employer

- (c) impose any penalty upon an employee; or
 - (d) intimidate or coerce an employee,
- because the employee,
- (e) has sought the enforcement of this Act or the regulations;
 - (f) has given information to an employment standards officer;
 - (g) has participated in or is about to participate in a proceeding or hearing under this Act; or
 - (h) testifies or is required to testify in a proceeding or hearing under this Act. R.S.O. 1970, c. 147, s. 42 (1), *amended*.

Penalty for offence

(2) Where an employer is convicted of an offence under subsection 1, the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with or without compensation or compensation in lieu of reinstatement for loss of wages and other benefits to be assessed against the employer. R.S.O. 1970, c. 147, s. 42 (2), *amended*.

Offence, penalty

(3) An employer who fails to comply with an order made under subsection 2 is guilty of an offence and on summary conviction is liable to a fine not exceeding \$100 for each day during which the failure continues. R.S.O. 1970, c. 147, s. 42 (3), *amended*.

Offence to keep false records, etc.

58. No person shall make, keep or produce or participate in, assent to or acquiesce in the making, keeping or producing of a false or deceptive book of account, payroll, record or other document required to be made, kept or produced under this Act or the regulations. R.S.O. 1970, c. 147, s. 43 (1), *part, amended*.

Offence

59.—(1) Every person who contravenes any provision of this Act or the regulations or a decision, requirement or order made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1970, c. 147, s. 43 (1), *part, amended*.

(2) Where an employer is convicted of an offence under subsection 1, the provincial judge making the conviction shall, in addition to any other penalty, assess the amount unpaid in respect of an employee or employees and shall order the employer to pay the amount so assessed to the Director who shall collect and distribute to the employee or employees the amount ordered to be paid. R.S.O. 1970, c. 147, s. 43 (3), *amended*.

(3) An order for payment under subsection 2 may be filed by the Director in a court of competent jurisdiction and thereupon the order shall be deemed to be an order of that court for the purposes of enforcement. R.S.O. 1970, c. 147, s. 43 (4), *amended*.

60.—(1) Where a corporation contravenes any provision of this Act or the regulations, an officer, director or agent of the corporation or a person purporting to act in any such capacity who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted.

(2) In determining whether for the purposes of subsection 1 an officer, director or agent of the corporation or a person purporting to act in any such capacity authorized, permitted or acquiesced in the contravention of any provisions of this Act or the regulations, it shall be for the officer, director or agent or person purporting to act in any such capacity to prove that he did not authorize, permit or acquiesce in the contravention.

(3) Where an officer, director or agent of the corporation or a person purporting to act in any such capacity is convicted of an offence under subsection 1, the provincial judge making the conviction may, in addition to any other penalty, assess the amount unpaid by the corporation in respect of the employee and shall order the officer, director or agent to pay the amount so assessed to the Director who shall collect and distribute to the employee the amount ordered to be paid.

(4) No prosecution under this section shall be instituted without the consent of the Director and the production of a consent purporting to be signed by the Director is admissible in evidence as *prima facie* proof of his consent. *New.*

61.—(1) In any proceeding or prosecution under this Act, *Copies constitute evidence*

(a) a copy of an order purporting to have been made under this Act or the regulations and purporting to

have been signed by an employment standards officer or a referee; or

- (b) a document purporting to be a copy of a book, payroll, record or other document, or any extract therefrom, and purporting to be certified by an employment standards officer,

is evidence of the order or document, and the facts appearing in the order or document without proof of the signature or official character of the person appearing to have signed the order or the certificate and without further proof.

Certificate constitutes evidence

- (2) In any proceeding or prosecution under this Act, a certificate purporting to be signed by the Director certifying that an employer has failed to make any payment under an order issued under this Act is evidence of the failure to pay without further proof. *New.*

Where information may be heard

- 62.** An information in respect of an offence under this Act or the regulations may, at the election of the informant, be heard, tried and determined by the Provincial Court (Criminal Division) having jurisdiction in the county or district in which the accused is resident or carries on business although the subject-matter of the information did not arise in that county or district. *New.*

Limitation

- 63.—(1)** No proceeding or prosecution under this Act shall be commenced more than two years after the facts upon which the proceeding or prosecution is based first came to the knowledge of the Director. R.S.O. 1970, c. 147, s. 43 (5), *amended.*

Idem

- (2) In a proceeding or prosecution under this Act, no employee shall be entitled to recover any moneys due to him more than two years before the facts upon which the proceeding or prosecution is based first came to the knowledge of the Director.

Evidence

- (3) A statement as to the time when the facts upon which the proceeding or prosecution is based first came to the knowledge of the Director purporting to be certified by the Director, is, without proof of the office or signature of the Director, evidence of the facts stated therein. *New.*

Director may exercise discretion

- 64.** Notwithstanding anything contained in this Act, the Director may in his discretion refuse to institute any proceeding or prosecution for the failure of an employer to comply with this Act where a remedy therefor is available to an employee under the terms of a collective agreement. *New.*

PART XV

REGULATIONS

65.—(1) The Lieutenant Governor in Council may make ^{Regulations} regulations for carrying out the purposes of this Act and, without restricting the generality of the foregoing, may make regulations,

- (a) establishing minimum rates of wages for employees or classes of employees;
- (b) designating or defining any establishment or part thereof to which this Act, a Part of this Act, or the regulations or any provision thereof, is applicable;
- (c) designating or defining the zone or zones within Ontario in which this Act, a Part of this Act, or the regulations or any provision thereof, is applicable;
- (d) exempting any class of employers or employees from the application of this Act, a Part of this Act, or the regulations or any provision thereof;
- (e) prescribing what constitutes the performance of work in respect of which minimum wages shall be paid;
- (f) prescribing the deductions that may be made from wages or any other payment or allowance to an employee;
- (g) prescribing the maximum number of hours that may elapse between the commencement and the termination of the daily work period or periods of an employee;
- (h) prescribing the particulars of employment that shall be given to an employee;
- (i) prescribing rates of pay and hours of work for the whole or part of any industry, business or trade in a designated part or parts of Ontario;
- (j) providing for the averaging of daily hours of work for a work week or daily or weekly hours of work over a longer period of time than a work week;
- (k) providing for the averaging of wages over a longer period of time than a work week;

- (l) providing for the setting up of committees to advise the Minister on any matters arising in relation to the administration of this Act;
- (m) prescribing the manner of giving notice of termination and the period and the form and content of such notice;
- (n) prescribing what constitutes termination of employment;
- (o) prescribing what constitutes "a definite term or task", "lay-off", "temporary lay-off", "indefinite lay-off", and a "period of employment";
- (p) providing that any payments to an employee by way of pension, insurance, workman's compensation, bonus, severance, supplementary unemployment benefits, or similar arrangements shall or shall not be taken into account on termination of employment;
- (q) notwithstanding Part VI, prescribing the hours of work after which overtime pay shall be paid in a work week by a class of employers or an industry, business or trade to employees or a class of employees, and designating or defining the class of employers or employees or the industry, business or trade;
- (r) prescribing the hours of work after which overtime is payable in a work week to an employee who does two or more kinds of work for which different hours of work in a work week upon which overtime is payable are prescribed under this Act;
- (s) prescribing maximum allowances for room or board to be taken into account in calculating minimum wages;
- (t) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 147, s. 36 (1), *amended*.

Application

(2) A regulation made under subsection 1 or any provision thereof may be confined in its application to any class of employer, employee or establishment defined in the regulation. R.S.O. 1970, c. 147, s. 36 (2).

**Averaging
of hours
of work**

66.—(1) Every agreement or arrangement between an employee and his employer for the averaging of hours over

an extended period for the purpose of determining overtime hours of work heretofore approved by the Director under *The Employment Standards Act, 1968* or *The Employment Standards Act*, being chapter 147 of the Revised Statutes of Ontario, 1970, shall, on and after the 1st day of January, 1975, be deemed to provide for overtime pay for any hours worked in the extended period in excess of forty-four hours multiplied by the number of weeks in the extended period.

(2) Notwithstanding subsection 1, any agreement or arrangement between an employee and his employer for the averaging of hours of work over an extended period for the purpose of determining overtime hours of work heretofore approved by the Director under *The Employment Standards Act, 1968* or *The Employment Standards Act*, being chapter 147 of the Revised Statutes of Ontario, 1970, is null and void three months after the date this Act comes into force. ^{Idem}

67. The following are repealed:

Repeals

1. *The Employment Standards Act*, being chapter 147 of the Revised Statutes of Ontario, 1970.
2. *The Employment Standards Amendment Act, 1972*, being chapter 120.
3. *The Employment Standards Amendment Act, 1973*, being chapter 172.
4. Section 37 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.

68. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. ^{Commencement}

69. This Act may be cited as *The Employment Standards Act, 1974*. ^{Short title}

The Employment Standards Act, 1974

1st Reading

November 7th, 1974

2nd Reading

3rd Reading

THE HON. J. MACBETH
Minister of Labour

(*Government Bill*)

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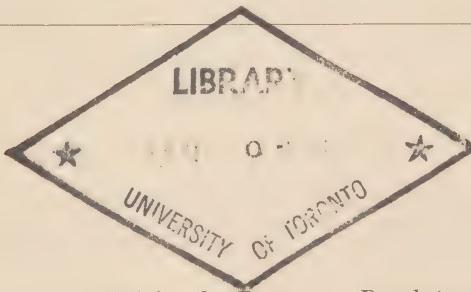
Government
Publications

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Employment Standards Act, 1974

THE HON. J. MACBETH
Minister of Labour



(Reprinted as amended by the Resources Development Committee)

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EXPLANATORY NOTES

The Bill updates, revises and consolidates the present law governing standards of employment and accords with the practices of the Employment Standards Branch of the Ministry of Labour.

The principal features of the Bill are as follows:

SECTION 1 — DEFINITIONS

1. The term "employment standard" is defined.
2. The definition of "wages" is more particularly set out.
3. The definition of "week" and "work week" is introduced to assist in administration.

PART I

SECTIONS 2-6 — GENERAL APPLICATION

1. The provisions respecting termination, pregnancy leave, equal pay and equal benefits will apply to the Crown, its agencies and boards.
2. Section 2 (3) provides that the exercise of certain powers do not require hearings under *The Statutory Powers Procedure Act, 1971*.
3. Section 5 (2) confers upon the Director the same power with respect to individual contractual benefits for vacations and holidays as he has with respect to collective agreements.
4. Section 6 provides that civil remedies are not affected by the Act.

PART II

SECTIONS 7-15 — GENERAL PROVISIONS

1. Section 7 provides for payment of all wages by cash or cheque, and the time and place of payment. The present Act deals only with the payment of minimum wages in cash or by cheque.
2. Section 10 (2) requires an employer to furnish a statement of the make-up of vacation pay which was not previously required.

PART III

SECTION 16 — HOMEWORKERS

This Part is unchanged.

PART IV

SECTIONS 17-22 — HOURS OF WORK

There are no changes except for housekeeping amendments.

PART V

SECTIONS 23-24 — MINIMUM WAGES

This Part is unchanged.

PART VI

SECTION 25 — OVERTIME PAY

1. The hours of work per week after which overtime is payable are reduced from forty-eight to forty-four.
2. Subsection 3 permits an employment standards officer to determine weekly hours and regular rate in cases where no proper records are kept.

PART VII

SECTIONS 26-28 — PUBLIC HOLIDAYS

1. The provisions permitting a substituted day as a holiday in lieu of a public holiday are expanded.
2. Section 26 (5) adds a provision giving an option to an employer in the hotel, etc., industry, in the case of a hospital, and where there is a continuous operation, to either pay holiday pay for work on the holiday, or pay regular pay and give another day as a holiday with pay.
3. Section 27 (2) provides that overtime hours and hours worked on a public holiday are not to be stacked. An employee will not be entitled to receive three times his regular pay for the week in which a public holiday occurs.

PART VIII

SECTIONS 29-32 — VACATIONS WITH PAY

There are no changes except for housekeeping amendments.

PART IX

SECTION 33 — EQUAL PAY FOR EQUAL WORK

The present principle is equal pay for the same work that requires equal skill, effort and responsibility. The new principle is equal pay for work that is substantially the same and that requires substantially the same skill, effort and responsibility.

PART X

SECTION 34 — EQUAL BENEFITS

The section prohibits distinctions, exclusions or preferences between employees because of age, sex or marital status under pension, life insurance, sickness, medical or hospital plans available to employees.

The section authorizes the Lieutenant Governor in Council to make regulations providing for exceptions to this general principle.

PART XI

SECTIONS 35-39 — PREGNANCY LEAVE

1. The previous exemption of an employer of twenty-four employees or less is repealed.
2. Section 36 grants a seventeen-week leave of absence (instead of the present twelve weeks) and permits the pregnant employee to choose the day leave commences.

The section makes further provision for shortening the length of leave.

3. Section 37 enables a pregnant employee to obtain a leave of absence in case of a medical condition that was not anticipated.
4. Section 39 enables an employment standards officer to require an employer to reinstate and pay compensation to an employee who wishes to return to work after the leave expires.

PART XII

SECTION 40 — TERMINATION OF EMPLOYMENT

1. There is no change in substance.
2. Subsection 6 of section 13 of the present Act is replaced by subsection 7 of section 40 which provides that where an employee is dismissed improperly and without notice, the employer is obliged to pay an amount equal to the wages the employee would have received during the notice period if the required notice had been given.

PART XIII

SECTIONS 41-56 — ADMINISTRATION

1. Section 42 (1) permits the Minister to appoint persons as referees to hear appeals from employment standards officers and difficult cases of wage claims.
2. Section 47 enables an employment standards officer to arrange for direct payment, settle a claim for or, in default of either, issue an order for payment by an employer of wages owed an employee up to \$4,000 plus a 10 per cent penalty. The present limit is \$2,000 plus the penalty.
3. Section 48 prevents an employer from retaining wages owed to employees who cannot conveniently be located. Such wages are to be paid to the Director in trust to be held for the employee or his estate or other person entitled thereto.
4. Section 49 enables an employee to request a review by the Director where an employment standards officer refuses to issue an order.
5. Section 50 permits an employer to appeal to a referee an order compelling payment to an employee.

6. Section 51 permits the Director to have a hearing by a referee of difficult questions or into alleged schemes to avoid this Act.
7. Section 54 permits the Director to issue a certificate of non-compliance with an order to pay and to enforce the order in the courts instead of having to prosecute and obtain an order for payment from a provincial court judge.

PART XIV

SECTIONS 57-64 — OFFENCES AND PENALTIES

1. Section 57 defines in detail and prohibits unfair employer practices against an employee.
2. Section 58 makes it an offence for an employer to make, keep or produce false employment records.
3. Section 59 increases the general penalty for a contravention of the Act to \$10,000 or six months in jail, or both. The present maximum is \$2,000 for an offence for which no other penalty is provided and there is no provision for imprisonment.
4. Section 60 (1) makes an officer, director or agent of an employer who participates in an offence guilty of the offence.

Section 60 (2) shifts to an officer, director or agent the onus of disproving his participation in a contravention of the Act or the regulations.

Section 60 (3) permits a judge to issue an order for payment of wages against an officer, director or agent who was a participant in the offence.

5. Sections 61 and 62 deal with matters of evidence.
6. Section 63 clarifies the limitation period of two years for recovery of wages.
7. Section 64 permits the Director to require an employee to use the arbitration process under collective agreements.

PART XV

SECTION 65 — REGULATIONS

There are no changes except for housekeeping amendments to conform with the new Act.

TRANSITIONAL SECTION

Section 66 brings into line with the forty-four hour work week all existing approvals for averaging hours over a period of more than one week. Existing approvals will be cancelled three months after the Act comes into force.

BILL 134**1974**

The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1. In this Act,

Interpre-
tation

- (a) “Deputy Minister” means the Deputy Minister of Labour;
- (b) “Director” means the person appointed by the Minister as Director of Employment Standards for the purposes of this Act;
- (c) “employee” includes a person who,
 - (i) performs any work for or supplies any services to an employer for wages,
 - (ii) does homework for an employer, or
 - (iii) receives any instruction or training in the activity, business, work, trade, occupation or profession of the employer,

and includes a person who was an employee;

- (d) “employer” includes any person who as the owner, proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession, has control or direction of, or is directly or indirectly responsible for, the employment of a person therein, and includes a person who was an employer;
- (e) “employment standard” means a requirement imposed upon an employer in favour of an employee by this Act or the regulations;

- (f) “employment standards officer” means a person appointed for the purposes of this Act, and includes the Director;
- (g) “homework” means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof in premises occupied primarily as living accommodation, and “home-worker” has a corresponding meaning;
- (h) “Minister” means the Minister of Labour;
- (i) “Ministry” means the Ministry of Labour;
- (j) “overtime rate” means the hourly rate of pay that an employee is entitled to receive for hours of work in excess of,
 - (i) the hours of work in a week prescribed in section 25 or the regulations, or
 - (ii) the regular hours of work in a day or a week under a contract of employment that under subsection 2 of section 4 prevails over the provisions of section 25,
 and “overtime pay” has a corresponding meaning;
- (k) “premium rate” means the rate of pay to which an employee is entitled for each hour of employment on a public holiday, or a day that is deemed to be a public holiday, and “premium pay” has a corresponding meaning;
- (l) “public holiday” means New Year’s Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day;
- (m) “regular rate” means,
 - (i) the wage rate of an employee for an hour of work in a regular non-overtime work week,
 - (ii) where subclause i does not apply, the average hourly rate calculated by dividing the wages of an employee earned in a week by the number of hours the employee worked in that week where the employer has made and kept in accordance with this Act complete and accurate records thereof, or

- (iii) where subclauses i and ii do not apply, the hourly rate determined by an employment standards officer;
- (n) "regulations" means the regulations made under this Act;
- (o) "termination pay" means the amount of pay to which an employee is entitled under section 40;
- (p) "wages" means any monetary remuneration payable by an employer to an employee under the terms of a contract of employment, oral or written, express or implied, any payment to be made by an employer to an employee under this Act, and any allowances for room or board as prescribed in the regulations or under an agreement or arrangement therefor but does not include,
 - (i) tips and other gratuities,
 - (ii) any sums paid as gifts or bonuses that are dependent on the discretion of the employer and are not related to hours, production or efficiency,
 - (iii) travelling allowances or expenses,
 - (iv) contributions made by an employer to a fund, plan or arrangement to which Part X of this Act applies;
- (q) "week" means a period of seven consecutive days;
- (r) "work week" means a week of work established by the practice of the employer or determined by an employment standards officer. R.S.O. 1970, c. 147, s. 1, *amended.*

PART I

GENERAL APPLICATION

2.—(1) Parts IX, X, XI and XII apply to the Crown, ^{Application of Act} every agency thereof and any board, commission, authority or corporation that exercises any functions assigned or delegated to it by the Crown. R.S.O. 1970, c. 147, ss. 12, 25 (6); 1972, c. 120, s. 1, *part, amended.*

Item

(2) This Act applies to every contract of employment, oral or written, express or implied,

(a) where the employment is for work or services to be performed in Ontario; or

(b) where the employment is for work or services to be performed both in and out of Ontario and the work or services out of Ontario are a continuation of the work or services in Ontario.

**Non-application
of
1971, c. 47**

(3) Part I of *The Statutory Powers Procedure Act, 1971* does not apply to the exercise of any power conferred by section 5, 12, 16, 18, 20, 24, subsection 3 of section 25 or section 30, 32, subsection 4 of section 34 or section 39, 47 or 49 of this Act. *New.*

**Waiver, etc.,
to be null
and void**

3. Subject to section 4, no employer, employee, employers' organization or employees' organization shall contract out of or waive an employment standard, and any such contracting out or waiver is null and void. R.S.O. 1970, c. 147, s. 3, *amended*.

**Employment
standard
deemed
minimum**

4.—(1) An employment standard shall be deemed a minimum requirement only. *New.*

**Greater
benefit to
prevail**

(2) A right, benefit, term or condition of employment under a contract, oral or written, express or implied, or under any other Act or any schedule, order or regulation made thereunder that provides in favour of an employee a higher remuneration in money, a greater right or benefit or lesser hours of work than the requirement imposed by an employment standard shall prevail over an employment standard. R.S.O. 1970, c. 147, s. 9, *amended*.

**Provisions of
collective
agreements
R.S.O. 1970,
c. 232**

5.—(1) Where terms or conditions of employment in a collective agreement as defined in *The Labour Relations Act* confer a higher remuneration in money or a greater right or benefit for an employee respecting holidays than the provisions of Part VII, the terms or conditions of employment shall prevail. 1973, c. 172, s. 1, *amended*.

**Terms and
conditions
that are not
in collective
agreements**

(2) Where the Director finds that terms or conditions of employment in a contract of employment oral or written, express or implied, that are not in a collective agreement confer a higher remuneration in money or a greater right or benefit for an employee respecting holidays than the provisions of Part VII, the terms or conditions of employment shall prevail. *New.*

**Civil remedy
not suspended
or affected**

6. No civil remedy of an employee against his employer is suspended or affected by this Act. *New.*

PART II

GENERAL PROVISIONS

7.—(1) An employer shall pay to an employee all wages ^{Payment of wages} to which an employee is entitled under,

- (a) an employment standard; or
- (b) a right, benefit, term or condition of employment under a contract of employment, oral or written, express or implied, that prevails over an employment standard,

in cash or by cheque.

(2) All wages shall be paid at the work place of the ^{Place of payment of wages} employee, or at a place agreed upon by the employer and the employee.

(3) All wages due and owing to an employee shall be paid ^{Time of payment of wages} by an employer on the regular pay day of the employee as established by the practice of the employer.

(4) Any payment to which an employee is entitled upon ^{Payment on termination} termination of employment shall be paid by the employer to the employee not later than seven days after termination of employment. *New.*

8. Except as permitted by the regulations, no employer ^{No set-off, etc., to be claimed against wages} shall claim a set-off against wages, make a claim against wages for liquidated or unliquidated damages or retain, cause to be returned to himself, or accept, directly or indirectly, any wages payable to an employee. R.S.O. 1970, c. 147, s. 4, *amended*.

9. No employer shall dismiss or suspend an employee ^{Garnishment not grounds for dismissal} upon the ground that garnishment proceedings are or may be taken against the employee. R.S.O. 1970, c. 147, s. 5.

10.—(1) An employer shall furnish to an employee at the ^{Statement of wages} time wages are paid to the employee a statement in writing, which can be retained by the employee, setting forth,

- (a) the period of time or the work for which the wages are being paid;
- (b) the rate of wages to which the employee is entitled unless such information is furnished to the employee in some other manner;

- (c) the amount of the wages to which the employee is entitled;
- (d) the amount of each deduction from the wages of the employee and the purpose for which each deduction is made;
- (e) any living allowance or other payment to which the employee is entitled; and
- (f) the net amount of money being paid to the employee. R.S.O. 1970, c. 147, s. 33, *amended*.

**Statement
of vacation
pay**

(2) Unless the information is given to an employee in some other manner, an employer shall furnish to an employee at the time vacation pay is paid to the employee a statement in writing which can be retained by the employee setting forth,

- (a) the period of time or the work for which the vacation pay is being paid;
- (b) the amount of the wages upon which the vacation pay is being paid;
- (c) the amount of each deduction from the vacation pay and its purpose; and
- (d) the net amount of vacation pay being paid to the employee. *New.*

Records

11.—(1) An employer shall,

- (a) make and keep in Ontario or in a place out of Ontario authorized by the Director for a period of twenty-four months after work is performed or services are supplied by an employee complete and accurate records in respect of the employee showing,
 - (i) the employee's name and address,
 - (ii) the employee's date of birth, if the employee is a student under eighteen years of age,
 - (iii) the number of hours worked by the employee in each day and week,
 - (iv) the employee's wage rate and gross earnings,

- (v) the amount of each deduction from the wages of the employee and the purpose for which each deduction is made,
 - (vi) any living allowance or other payment to which the employee is entitled,
 - (vii) the net amount of money being paid to the employee, and
 - (viii) any documents or certificates relating to pregnancy leave under Part XI; and
- (b) make and keep in Ontario or in a place out of Ontario authorized by the Director for a period of five years after work is performed by an employee complete and accurate records in respect of the employee showing,
- (i) the employee's name and address,
 - (ii) the date of commencement of employment and the anniversary date thereof, and
 - (iii) the employee's wages during each pay period and the vacations with pay or payment under section 31. R.S.O. 1970, c. 147, s. 38 (1), *amended.*

(2) Subclause iii of clause *a* of subsection 1 does not apply Exception in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty-four hours a week. R.S.O. 1970, c. 147, s. 38 (2), *amended.*

12.—(1) Where before or after this Act comes into force Related activities, etc., may be treated as one employer associated or related activities, businesses, trades or undertakings are or were carried on by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, under common control or direction, and a person is or was an employee of such corporations, individuals, firms, syndicates or associations, or any combination thereof, an employment standards officer may treat the corporations, individuals, firms, syndicates or associations as one employer for the purposes of this Act. R.S.O. 1970, c. 147, s. 6, *amended.*

Individual liability

(2) The corporations, individuals, firms, syndicates or associations treated as one employer shall be individually liable for any contravention of this Act and the regulations. *New.*

Interpre-
tation

13.—(1) In this section,

- (a) “business” includes an activity, trade or undertaking, or a part or parts thereof;
- (b) “sells” includes leases, transfers or any other manner of disposition and “sale” has a corresponding meaning.

Continuity of
employment

(2) Where an employer sells his business to a purchaser who employs an employee of the employer, the employment of the employee shall not be terminated by the sale, and the period of employment of the employee with the employer shall be deemed to have been employment with the purchaser for the purposes of Parts VII, VIII, XI and XII.

Part XII
to be
complied
with

(3) Where an employer sells his business to a purchaser who does not employ an employee of the employer, the employer shall comply with Part XII. R.S.O. 1970, c. 147, s. 7, *amended*.

Priority
of claims
R.S.C. 1970,
c. B-4

14. Notwithstanding the provisions of any other Act and except upon a distribution made by a trustee under the *Bankruptcy Act* (Canada), wages shall have priority to the claims or rights and be paid in priority to the claims or rights, including the claims or rights of the Crown, of all preferred, ordinary or general creditors of the employer to the extent of \$2,000 for each employee. R.S.O. 1970, c. 147, s. 8 (1), *amended*.

Vacation pay
deemed to
be held in
trust

15. Every employer shall be deemed to hold vacation pay accruing due to an employee in trust for the employee whether or not the amount therefor has in fact been kept separate and apart by the employer and the vacation pay becomes a lien and charge upon the assets of the employer that in the ordinary course of business would be entered in books of account whether so entered or not. R.S.O. 1970, c. 147, s. 8 (2), *amended*.

PART III

HOMEWORKERS

Application
for permit

16.—(1) An application for a permit to employ homeworkers shall be made by the employer to the Director.

(2) No person shall employ a homeworker without a per-^{Permit}mit therefor issued by the Director.

(3) The Director may,

- (a) issue a permit on such terms and conditions as he considers advisable;
- (b) revoke or suspend a permit for a breach of a term or condition thereof, or where the holder is liable for a nuisance within the meaning of *The Public Health Act*, or for a contravention of any Act.

Terms,
conditions,
revocation
and
suspension
of permit

(4) Every employer shall keep a register and enter ^{Register of}homeworkers therein the name and address of every homeworker to whom the employer gives homework, and the wages paid therefor.

R.S.O. 1970, c. 147, s. 32, *amended*.

PART IV

HOURS OF WORK

17. Except as otherwise provided in this Part, and subject to any schedule in force under *The Industrial Standards Act*, the hours of work of an employee shall not exceed eight in the day and forty-eight in the week.

R.S.O. 1970, c. 147, s. 14 (1), *amended*.

Maximum
working
hours
R.S.O. 1970,
c. 221

18. An employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty-eight hours in a week.

R.S.O. 1970, c. 147, s. 15 (1), *amended*.

Variation
of working
day

19. In case of an accident or in case of work urgently required to be done to machinery or plant, the employer may require the limit of hours of work prescribed by section 17 or approved under section 18 to be exceeded but only so far as may be necessary to avoid serious interference with the ordinary working of the establishment.

R.S.O. 1970, c. 147, s. 16 (4), *amended*.

Exceeding
maximum
in case of
accident

20.—(1) The Director may issue a permit authorizing hours of work in excess of those prescribed by section 17 or approved under section 18, but the excess hours of work shall not exceed,

Permits
for excess
hours

- (a) in the case of an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman or other person who, in the opinion of the Director, is engaged in a similar occupation, twelve hours in each week for each employee; and
- (b) in the case of all other employees, 100 hours in each year for each employee. R.S.O. 1970, c. 147, s. 16 (1), *amended*.

Idem

(2) Where the Director is satisfied that the work or the perishable nature of raw material being processed requires hours of work in excess of those permitted under subsection 1, he may issue a permit therefor. R.S.O. 1970, c. 147, s. 16 (2), *amended*.

Permit
does not
oblige
employee

(3) The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of eight in the day or forty-eight in the week. R.S.O. 1970, c. 147, s. 18 (2), *amended*.

Terms and
conditions
of permit

(4) A permit issued under this section shall contain such terms, conditions and limitations as the Director prescribes. R.S.O. 1970, c. 147, s. 17, *amended*.

Agreements
subject to
maximums

21. Except as otherwise provided in this Part, no employer may require or permit work, and no employee may work or agree to work, any hours that exceed the maximum hours established under this Act. R.S.O. 1970, c. 147, s. 18 (1), *amended*.

Eating
periods

22. Every employer shall provide eating periods of at least one-half hour, or such shorter period as is approved by the Director, at such intervals as will result in no employee working longer than five consecutive hours without an eating period. R.S.O. 1970, c. 147, s. 20, *amended*.

Statutory
agreement
for minimum
wage

23. Every employer who permits any employee to perform work or supply any services in respect of which a minimum wage is established shall be deemed to have agreed to pay to the employee at least the minimum wage established under this Act. R.S.O. 1970, c. 147, s. 22, *amended*.

PART V

MINIMUM WAGES

24. For the purpose of enabling a handicapped person to ^{Handicapped employees} be gainfully employed, the Director may, upon the application of the handicapped person or his employer and with the consent of the handicapped person, his parent or guardian, authorize the employment of such handicapped person to perform such work as is authorized at a wage lower than the minimum wage prescribed under this Act. R.S.O. 1970, c. 147, s. 23, *amended*.

PART VI

OVERTIME PAY

25.—(1) Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty-four hours in any week, he shall be paid for each hour worked in excess of forty-four hours overtime pay at an amount not less than one and one-half times the regular rate of the employee.

(2) In complying with subsection 1, no employer shall ^{Idem} reduce the regular rate of wages payable to an employee. 1973, c. 172, s. 3, *amended*.

(3) Where an employer has not made and kept complete and accurate records in respect of an employee pursuant to clause *a* of subsection 1 of section 11, an employment standards officer may determine the regular rate of and the number of hours worked by the employee in each day and week. *New*.

PART VII

PUBLIC HOLIDAYS

26.—(1) This section does not apply to an employee ^{Application} who,

- (a) is employed for less than three months;
- (b) has not earned wages on at least twelve days during the four work weeks immediately preceding a public holiday;
- (c) fails to work his scheduled regular day of work preceding or his scheduled regular day of work following a public holiday;

(d) has agreed to work on a public holiday and who, without reasonable cause, fails to report for and perform the work; or

(e) is employed under an arrangement whereby the employee may elect to work or not when requested so to do. 1973, c. 172, s. 7, *part, amended.*

Holiday
with pay

(2) Subject to subsections 3, 4 and 5, an employer shall give to an employee a holiday on and pay to the employee his regular wages for each public holiday.

Working day
substituted
for holiday

(3) Where a public holiday falls upon a working day for an employee, an employer may with the agreement of the employee or his agent substitute another working day for the public holiday which day shall not be later than the next annual vacation of the employee, and the day so substituted shall be deemed to be the public holiday.

Holiday
that is a
non-working
day

(4) Where a public holiday falls on a non-working day for an employee or in his vacation an employer shall,

(a) with the agreement of the employee or his agent pay the employee his regular wages for the public holiday; or

(b) designate a working day that is not later than the next annual vacation of the employee and the day so designated shall be deemed to be the public holiday. 1973, c. 172, s. 7, *part, amended.*

Holiday
pay

(5) Notwithstanding subsection 3, where an employee is employed in a hotel, motel, tourist resort, restaurant, tavern, continuous operation or a hospital, and the employee is required to work and works on a public holiday, the employer shall,

(a) pay the employee in accordance with subsection 1 of section 27; or

(b) pay the employee for each hour worked on a public holiday an amount not less than his regular wages and give to the employee a holiday on his first working day immediately following his next annual vacation or on a working day agreed upon and pay him his regular wages for that day.

Interpre-
tation

(6) For the purposes of subsection 5,

(a) "continuous operation" means that part of an establishment, industry or service in which in each seven day period operations once commenced

normally continue day and night without cessation until the completion of the regularly scheduled operations for that period;

- (b) "hospital" means a hospital as defined in *The Hospital Labour Disputes Arbitration Act.* New. ^{R.S.O. 1970, c. 208}

27.—(1) Subject to subsection 5 of section 26, where an employee works on a public holiday, the employer shall pay to the employee for each hour worked a premium rate of not less than one and one-half times his regular rate and, where the employee is entitled to the holiday with pay, his regular wages in addition thereto. 1973, c. 172, s. 7, *part, amended.*

(2) Where an employee works on a public holiday, the hours the employee works on the public holiday shall not be taken into consideration in calculating any overtime pay to which the employee is entitled for the work week in which the public holiday occurs. *New.*

28. Where the employment of an employee ceases before the day that is substituted, designated or given for the public holiday under subsection 3, clause b of subsection 4, or clause b of subsection 5, of section 26, the employer shall pay to the employee in addition to any other payment to which the employee is entitled upon the ceasing of employment his regular wages for that day. *New.*

PART VIII

VACATION WITH PAY

29.—(1) Every employer shall give to each employee a vacation with pay of at least two weeks upon the completion of each twelve months of employment.

(2) The amount of pay for such vacation shall be not less than an amount equal to 4 per cent of the wages of the employee in the twelve months of employment for which the vacation is given and in calculating wages no account shall be taken of any vacation pay previously paid. 1973, c. 172, s. 5, *part, amended.*

30.—(1) The employer shall determine the period when an employee may take the vacation to which he is entitled under section 29, which may be a two week period or two periods of one week each, but in any case the employee shall be given his vacation not later than ten months after the end of the twelve month period for which the vacation was given.

Director
may require
employer
to pay

(2) Notwithstanding subsection 1 of this section and subsection 3 of section 7, the Director may require an employer to pay to an employee at any time the vacation pay to which the employee is entitled under section 29. 1973, c. 172, s. 7, *part, amended.*

Idem

(3) Subsection 2 applies notwithstanding that there is a strike or lock-out as a result of a labour dispute. *New.*

Vacation
pay

31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 4 per cent of the wages of the employee in any twelve month period or periods or part thereof and in calculating wages no account shall be taken of any vacation pay previously paid. 1973, c. 172, s. 5, *part, amended.*

Agreements
respecting
vacation or
vacation
pay

32. Any agreement between an employer and an employee or employees or his or their agent respecting the method of providing funds for paying vacation pay, or payment in lieu of vacation, or of any arrangements for the taking of vacation, is subject to the approval of the Director. 1973, c. 172, s. 5, *part.*

PART IX

EQUAL PAY FOR EQUAL WORK

Equal pay
for equal
work

33.—(1) No employer or person acting on behalf of an employer shall differentiate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or *vice versa*, for substantially the same kind of work performed in the same establishment, the performance of which requires substantially the same skill, effort and responsibility and which is performed under similar working conditions, except where such payment is made pursuant to,

- (a) a seniority system;
- (b) a merit system;
- (c) a system that measures earnings by quantity or quality of production; or
- (d) a differential based on any factor other than sex.

Pay not to
be reduced

(2) No employer shall reduce the rate of pay of an employee in order to comply with subsection 1.

(3) No organization of employers or employees or its agents shall cause or attempt to cause an employer to agree to or to pay to his employees rates of pay that are in contravention of subsection 1.

(4) Where an employment standards officer finds that an employer has failed to comply with subsection 1, the employment standards officer may determine the amount of moneys owing to an employee because of such non-compliance, and such amount shall be deemed to be unpaid wages. R.S.O. 1970, c. 147, s. 25 (1-4), *amended*.

PART X

BENEFIT PLANS

34.—(1) This Part applies to a fund, plan or arrangement provided, furnished or offered or to be provided, furnished or offered by an employer to his employees,

- (a) under a term or condition of employment; or
- (b) in which an employee may elect to participate or not and to which the employer contributes or does not contribute,

that directly or indirectly provides benefits to his employees, their beneficiaries, survivors or dependants, whether payable periodically or not, for superannuation, retirement, unemployment, income replacement, death, disability, sickness, accident, or medical, hospital, nursing or dental expenses, or other similar benefits or benefits under a deferred profit sharing plan in which employees participate in profits of the employer where the profits accumulated under the plan are permitted to be withdrawn or distributed upon death or retirement or upon contingencies other than death or retirement.

(2) Except as provided in the regulations, no employer or person acting directly on behalf of an employer shall provide, furnish or offer any fund, plan, arrangement or benefit that differentiates or makes any distinction, exclusion or preference between his employees or a class or classes of his employees or their beneficiaries, survivors or dependants because of the age, sex or marital status of his employees.

(3) No organization of employers or employees, or person acting directly on behalf of an organization of employers

Employer
not to be
requested to
contravene
subs. 1

Employer
not to be
requested to
contravene
subs. 2

or employees, shall cause or attempt to cause an employer, directly or indirectly, to act contrary to subsection 2.

Powers of
Director

(4) Where, in the opinion of the Director, an employer, an organization of employers or employees or a person acting directly on behalf of an employer or such organization may have acted contrary to subsection 2, the Director may exercise the power conferred by subsection 1 of section 51, and section 51 applies *mutatis mutandis*.

Regulations

(5) In addition to the powers conferred by section 65, the Lieutenant Governor in Council may make regulations respecting any matter or thing necessary or advisable to carry out the intent and purpose of this Part, and without restricting the generality of the foregoing, may make regulations,

- (a) exempting any fund, plan or arrangement or part thereof, heretofore or hereafter in existence, or any benefits thereunder from the application of this Part or any provision thereof;
- (b) permitting a fund, plan or arrangement to provide, furnish or offer a benefit or benefits that differentiate or make a distinction, exclusion or preference between employees or a class thereof or their beneficiaries, survivors or dependants;
- (c) suspending the application of this Part or any provision thereof to any fund, plan or arrangement or any benefits thereunder, whether provided, furnished or offered under a collective agreement or not, for such period or periods of time as may be prescribed;
- (d) providing that an employer may not reduce any benefits to an employee or class of employees under any fund, plan or arrangement provided, furnished or offered in order that the employer may comply with subsection 2;
- (e) providing the terms or conditions under which an employee may be entitled or disentitled to a benefit under a fund, plan or arrangement;
- (f) defining any expression used in this Part, or in the regulations under this Part. *New.*



PART XI

PREGNANCY LEAVE

35. No employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under section 36, but the employer may require the employee to commence a leave of absence pursuant to section 36 at such time as the duties of her position cannot reasonably be performed by a pregnant woman or the performance of her work is materially affected by the pregnancy. 1972, c. 120, s. 1, *part, amended.*

36.—(1) An employee who is pregnant and who has been employed by her employer for a period of at least twelve months and eleven weeks immediately preceding the estimated day of her delivery, whether such employment commenced before or after the coming into force of this Act, shall be entitled upon her application therefor to a leave of absence of at least seventeen weeks from her employment or such shorter leave of absence as the employee may request commencing during the period of eleven weeks immediately preceding the estimated day of her delivery.

(2) Notwithstanding subsection 1 and subject to subsection 5, where the actual date of her delivery is later than the estimated day of her delivery, the leave of absence shall not end before the expiration of six weeks following the actual date of her delivery.

(3) The employee shall give her employer two weeks notice in writing of the day upon which she intends to commence her leave of absence and furnish her employer with the certificate of a legally qualified medical practitioner stating that she is pregnant and giving the estimated day upon which delivery will occur in his opinion.

(4) Subject to subsection 5, an employee may, with the consent of her employer, shorten the duration of the leave of absence requested under subsection 1.

(5) An employee may shorten the duration of the six week period mentioned in subsection 2 upon giving her employer one week's notice of her intention so to do and furnishing her employer with the certificate of a legally qualified medical practitioner stating that she is able to resume her work. 1972, c. 120, s. 1, *part, amended.*

Leave
where
employee
ceases work

37. An employee who does not apply for leave of absence under section 36, and who is otherwise entitled to pregnancy leave thereunder, shall be entitled to and shall be granted leave of absence in accordance with section 36 upon providing her employer before the expiry of two weeks after she ceased to work with a certificate of a legally qualified medical practitioner stating that she was not able to perform the duties of her employment because of a medical condition arising from her pregnancy, and giving the estimated day upon which, in his opinion, delivery will occur or the actual date of her delivery. *New.*

Reinstate-
ment and
preservation
of seniority

38.—(1) An employee who intends to resume her employment on the expiration of a leave of absence granted to her under this Part shall so advise her employer and on her return to work her employer shall reinstate the employee to her position or provide her with alternative work of a comparable nature at not less than her wages at the time her leave of absence began and without loss of seniority or benefits accrued to the commencement of her leave of absence. 1972, c. 120, s. 1, *part, amended.*

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time her leave of absence began with no loss of seniority or benefits accrued to the commencement of her leave of absence, and in the absence of such a system or practice shall reinstate the employee in accordance with subsection 1. *New.*

Employment
standards
officer may
make order

39. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director in trust for the employee. *New.*

PART XII

TERMINATION OF EMPLOYMENT

Notice of
termination

40.—(1) No employer shall terminate the employment of an employee who has been employed for three months or more unless he gives,

(a) one week's notice in writing to the employee if his period of employment is less than two years;

- (b) two weeks notice in writing to the employee if his period of employment is two years or more but less than five years;
- (c) four weeks notice in writing to the employee if his period of employment is five years or more but less than ten years; and
- (d) eight weeks notice in writing to the employee if his period of employment is ten years or more,

and such notice has expired. R.S.O. 1970, c. 147, s. 13 (1), *amended*.

(2) Notwithstanding subsection 1, the notice required ^{Idem} by an employer to terminate the employment of fifty or more employees in any period of four weeks or less shall be given in the manner and for the period prescribed in the regulations, and until the expiry of such notice the termination shall not take effect. R.S.O. 1970, c. 147, s. 13 (2).

- (3) Subsections 1 and 2 do not apply to,

Exceptions

- (a) an employee employed for a definite term or task;
 - (b) an employee who is temporarily laid off, as defined in the regulations;
 - (c) an employee who has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer;
 - (d) a contract of employment that is or has become impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance; or
 - (e) an employee employed in an activity, business, work, trade, occupation or profession, or any part thereof, that is exempted by the regulations.
- R.S.O. 1970, c. 147, s. 13 (3).

(4) Notwithstanding clause *d* of subsection 3, subsections 1 and 2 shall apply to an employee whose contract of employment is or has become impossible of performance or frustrated by an order, direction or notice made, given or issued against an employer under *The Environmental Protection Act, 1971*. 1973, c. 172, s. 2.

**Application
of subss. 1, 2**

Employer to
co-operate
with Minister

(5) Where an employer is required to give the notice referred to in subsection 2 he shall co-operate with the Minister during the period of the notice in any action or program intended to facilitate the re-establishment in employment of the employees whose employment is to be terminated. R.S.O. 1970, c. 147, s. 13 (4).

Rate of
wages, etc.,
not to be
altered

(6) Where the notice referred to in subsection 1 or 2 has been given,

- (a) no employer shall alter the rates of wages or any other term or condition of employment of any employee to whom notice has been given;
- (b) an employer shall pay to the employee during the period of notice the wages the employee is entitled to receive which in no case shall be less than his regular wages for a regular non-overtime work week; and
- (c) upon the expiry of the notice, the employer shall pay to the employee any wages or vacation pay to which he is entitled. R.S.O. 1970, c. 147, s. 13 (5), *amended*.

Where
employment
terminated
contrary
to section

(7) Where the employment of an employee is terminated contrary to this section, the employer shall pay the employee termination pay of an amount equal to the wages that the employee would have been entitled to receive at his regular rate for a regular non-overtime work week for the period of notice prescribed by subsection 1 or 2, and any wages to which he is entitled. *New*.

Notice by
employee

(8) An employee to whom notice has been given under subsection 2 shall not terminate his employment until after the expiry of,

- (a) one week's notice in writing to the employer if the period of employment is less than two years; or
- (b) two weeks notice in writing to the employer if the period of employment is two years or more,

unless his employer has been guilty of a breach of the terms and conditions of employment. R.S.O. 1970, c. 147, s. 13 (9, 10), *amended*.

PART XIII

ADMINISTRATION

41.—(1) The Minister is responsible for the administration of this Act. R.S.O. 1970, c. 147, s. 2 (1).

Minister responsible for administration

(2) The Minister shall appoint a person to be the Director of Employment Standards for the purposes of the general administration of this Act and the regulations including the supervision and direction of employment standards officers. R.S.O. 1970, c. 147, s. 2 (2), *amended*.

Director to be appointed

(3) Such persons as are considered necessary to enforce this Act and the regulations may be appointed as employment standards officers under *The Public Service Act*. *New.*

Appointment of employment standards officers
R.S.O. 1970, c. 386

(4) Where the Director is absent or unable to act or where the office is vacant, the powers and duties of the Director shall be exercised and performed by an employee of the Ministry designated by the Minister. R.S.O. 1970, c. 147, s. 11, *amended*.

Acting Director

42.—(1) The Minister shall appoint during his pleasure such persons to a panel of referees as he considers necessary for the purposes of this Act.

Appointment of referees

(2) A referee shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. *New.*

Remuneration

43.—(1) The Director may exercise the powers conferred and shall perform the duties imposed upon him under this Act.

Powers and duties of Director

(2) The Director may authorize an employment standards officer orally or in writing to exercise a power conferred upon the Director under this Act.

Authority to exercise power

(3) An employment standards officer may exercise the powers conferred and shall perform the duties imposed upon him under this Act. *New.*

Powers and duties of employment standards officer

44.—(1) The Deputy Minister shall issue a certificate of appointment bearing his signature or a facsimile thereof to every employment standards officer.

Certificate of appointment

(2) Every employment standards officer, in the exercise of any of his powers or the performance of any of his duties under this Act, shall produce his certificate of appointment upon request. *New.*

Production of certificate

Powers of
employment
standards
officer

45.—(1) An employment standards officer may, for the purpose of ensuring that the provisions of this Act and the regulations are being complied with,

- (a) subject to subsection 2, enter in or upon the lands or premises of a person at any reasonable time or times without a warrant for the purpose of carrying out an inspection, audit or examination;
- (b) require the production for inspection, audit or examination of all books of account, documents, vouchers, payrolls, records, letters patent, by-laws, minutes of directors' meetings, or documents that are or may be relevant to the inspection, audit or examination;
- (c) upon giving a receipt therefor, remove any books, papers, records or documents examined under clause b for the purpose of making copies or extracts of such books, papers, documents, or things, but such copying shall be carried out with reasonable dispatch and the books, papers, records or documents shall be promptly returned thereafter to the person who produced or furnished them;
- (d) make any inquiries of any person separate or apart from another person that are or may be relevant to the inspection, audit or examination.

Entry into
dwelling

(2) No employment standards officer shall enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*. R.S.O. 1970, c. 147, s. 40, *amended*.

Employment
standards
officer not
competent or
compellable
as witness

(3) No employment standards officer is a competent or compellable witness in a civil suit or proceeding respecting any information, material or statements acquired, furnished, obtained, made or received under the powers conferred under this Act except for the purposes of carrying out his duties under this Act.

Production of
documents

(4) No employment standards officer shall be compelled or required to produce in a civil suit or proceeding any document, extract, report, material or statement acquired, furnished, obtained, made or received under the powers conferred under this Act except for the purposes of carrying out his duties under this Act. *New*.

46.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an employment standards officer in the exercise of a power or the performance of a duty under this Act.

(2) Every person shall furnish all necessary means in his power to facilitate any entry, production, inspection, audit, examination or inquiry by an employment standards officer in the exercise of a power or the performance of a duty under this Act.

(3) No person shall neglect or refuse to produce all books, ledgers, vouchers, payrolls, records, letters patent, minutes of directors' meetings, or documents that are or may be relevant to an inspection, audit or examination. *New.*

47.—(1) Where an employment standards officer finds that an employee is entitled to any wages from an employer, he may,

- (a) arrange with the employer that the employer pay directly to the employee the wages to which the employee is entitled;
- (b) receive from the employer on behalf of the employee any wages to be paid to the employee as the result of a compromise or settlement; or
- (c) issue an order in writing to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled and such order shall provide in addition for payment by the employer to the Director of a penalty of 10 per cent of the wages or the sum of \$25, whichever is the greater, provided that the order shall not order the employer to pay a sum exceeding \$4,000 for an employee.

(2) Where an employment standards officer issues an order under subsection 1, the order shall contain or have attached thereto information indicating the nature of the amount to be paid to an employee.

(3) An order issued under subsection 1 may order an employer to pay wages to one or more than one employee to which one or more than one employee is entitled for one or more than one failure to comply with a contract or more than one contract of employment or with this Act and the regulations.

Delivery or service of order

(4) An order issued under subsection 1 shall be delivered to the employer by registered mail addressed to the employer at his or its last known place of business or served personally in the case of an individual and if the employer is a corporation upon the president, vice-president, secretary, treasurer, director, manager or person in charge of any branch of the corporation.

Certificate of service

(5) A certificate of the Director certifying that the order was served upon or sent by registered mail to the employer and accompanied by a true copy of the order is admissible as evidence of the issue, service, mailing and receipt of the order.

Compliance with order

(6) Every employer to whom an order is issued under subsection 1 shall comply with it in accordance with its terms. R.S.O. 1970, c. 147, s. 34, *amended*.

Payment to Director in trust

48.—(1) Where an employer has made an arrangement with an employment standards officer for the payment of wages to an employee under clause *a* of subsection 1 of section 47, or an employment standards officer has received wages from an employer for or on behalf of an employee under clause *b* of subsection 1 of section 47, and the employee cannot be conveniently located, the employer shall pay the wages to the Director in trust.

Wages to be held in trust

(2) Where wages have been received or collected for or on behalf of an employee by the Director in trust and the employee cannot be located, the wages shall be vested in and held in trust for Her Majesty and paid into the Consolidated Revenue Fund but may without interest thereon be paid out to the employee, his estate, or such other person as the Director considers is entitled thereto. *New*.

Order may be refused

49.—(1) Where, following a complaint in writing by an employee, an employment standards officer finds that an employer has paid the wages to which an employee is entitled under this Act he may refuse to issue an order to an employer and upon refusing to do so shall advise the employee of the refusal by prepaid letter addressed to the employee at his last known address.

Review of refusal to issue order

(2) An employee who considers himself aggrieved by the refusal to issue an order to an employer may apply to the Director in writing within fifteen days of the date of the mailing of the letter mentioned in subsection 1 for a review of the refusal and the Director shall cause the complaint to be reviewed by an employment standards officer who may exercise any power conferred under subsection 1 of section 47

or may refuse to issue an order, in which case he shall advise the employee of the refusal in accordance with subsection 1. *New.*

50.—(1) An employer who considers himself aggrieved by an order made under section 39 or 47, upon paying the wages ordered to be paid and the penalty thereon, if any, may, within a period of fifteen days after the date of delivery or service of the order, or such longer period as the Director may for special reasons allow and provided that the wages have not been paid out pursuant to subsection 2 of section 53, apply for a review of the order by way of a hearing. Review of order

(2) An application for review shall be made in writing to the Director and shall specify the grounds for the application. Application for review

(3) The review shall be heard as soon as is practicable by a Hearing referee selected by the Director from the panel of referees. Hearing

(4) The employer, the employment standards officer from whose order the application for review is taken and such other persons as the referee may specify are parties to an application for review under this section and on the review the employer shall be the applicant and the employment standards officer and such other persons specified by the referee, if any, shall be the respondents. Parties

(5) Where a group or groups of persons having the same or substantially the same interest may be affected by the findings or opinions of the referee, the referee may specify one or more of the persons comprising the group or groups to represent the group or groups and the one or more so specified are parties to the review. Persons to represent groups

(6) On a review under this section, the referee may substitute his findings or opinions for those of the employment standards officer who issued the order being reviewed and may amend, rescind or affirm the order. Powers of referee

(7) A decision of the referee under this section is final and binding upon the parties thereto and such other parties as the referee may specify. R.S.O. 1970, c. 147, s. 34, *part, amended.* Decision final and binding

51.—(1) Where an employment standards officer reports to the Director that an employer may have failed to pay the wages owing to an employee under this Act or to comply with this Act and the regulations, or is of the opinion that an act, agreement, arrangement or scheme is intended to have or has the effect, directly or indirectly, of defeating the Appointment of referee

true intent and purpose of this Act and the regulations, the Director may appoint a referee selected by him from the panel of referees who shall hold a hearing.

Powers of referee

(2) The referee holding the hearing under subsection 1, may, *mutatis mutandis*, exercise the powers conferred upon an employment standards officer under this Act and in addition thereto or substitution therefor, where the referee determines that an act, agreement, arrangement or scheme is intended to have or has the effect, directly or indirectly, of defeating the true intent and purpose of this Act and the regulations, he shall state his findings of fact and issue to and cause to be served upon such person as he may direct an order requiring such person to cease and desist from the act, agreement, arrangement or scheme and may order what action, if any, the person shall take or what he shall refrain from doing in order to comply with this Act and the regulations.

Compliance with order

(3) Every employer or person to whom an order is given under subsection 2 shall comply with it in accordance with its terms.

Decision final and binding

(4) The order of the referee is final and not subject to review under section 50. R.S.O. 1970, c. 147, ss. 10, 34, *amended*.

Payment to Director

52.—(1) Where the Director has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to an employer who is liable to make any payment under this Act, he may, by registered letter or by a letter served personally, demand that the person pay the moneys otherwise payable to the employer in whole or in part to the Director in trust on account of the liability under this Act. R.S.O. 1970, c. 147, s. 35 (1), *amended*.

Receipt of Director

(2) The receipt of the Director for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. R.S.O. 1970, c. 147, s. 35 (2).

Liability to pay

(3) Every person who has discharged any liability to an employer who is liable to make a payment under this Act without complying with a demand under this section is liable to pay an amount equal to the liability discharged or the amount that he was required under this section to pay, whichever is the lesser. *New*.

Payment to employee

53.—(1) Where wages are received under clause b of subsection 1 of section 47, the Director shall pay to the employee or employees the wages received on his or their behalf.

(2) Where compensation or wages have been paid by an ^{Idem} employer under an order issued under section 39 or clause c of subsection 1 of section 47, and no application for review has been made to the Director under section 50 within a period of fifteen days from the date of delivery of the order or such longer period as the Director has allowed, the Director shall pay to the employee or employees the compensation or wages obtained on his or their behalf.

(3) Where an application for review under section 50 has ^{Payment after review} been made to the Director, the Director shall pay to the employee or the employees the wages owing, if any, in accordance with the decision of the referee and shall pay to the employer any moneys to which the employer is entitled under the decision.

(4) Where the moneys received by the Director under this ^{Moneys to be distributed} Act are insufficient to pay the wages due employees of an ^{rateably} employer in full, the Director shall distribute the moneys received by him, including any penalty, rateably among those employees on whose behalf the moneys were received.

(5) No action or proceeding lies or shall be instituted ^{No action to lie} against the Director for acting in compliance with this section.

54.—(1) Where an order has been made under this ^{Certificate of order} Act requiring an employer to pay any moneys to the Director for or on behalf of an employee or employees, the Director may issue a certificate thereof and cause the same to be filed in a court of competent jurisdiction and thereupon the certificate shall be enforceable as a judgment or order of the court at the instance and in favour of the Director in the same manner as a judgment or order of the court.

(2) The Director shall send a copy of the certificate to the ^{Copy of certificate} employer by registered mail and advise the employer of the date the certificate was filed. *New.*

55.—(1) The Director, for any purpose relating to the ^{Demand for information} administration or enforcement of this Act and the regulations, may, by registered letter addressed to an employer at his or its last known place of business or by demand served personally in the case of an individual and if the employer is a corporation upon the president, vice-president, secretary, treasurer or a director or the manager or person in charge of any branch of the corporation require the production for inspection, audit or examination of such books, papers, records or documents within such time and at such place as are stipulated in such letter or demand. R.S.O. 1970, c. 147, s. 41 (1), *amended.*

Neglect
or refusal
to produce

(2) No employer shall neglect or refuse to produce the books, papers, records or documents at the time and place stipulated in the letter or demand. *New.*

Proof
of service
or mailing

(3) A certificate of the Director certifying that the letter or demand was served upon or sent by registered letter to the employer to whom it was addressed, accompanied by a true copy of the letter or demand, is admissible as evidence of the service, mailing and receipt of the notice. R.S.O. 1970, c. 147, s. 41 (2), *amended*.

Posting of
notices

56. The Director may require an employer to post and keep posted a notice relating to the administration or enforcement of this Act or the regulations in a conspicuous place where it is most likely to come to the attention of his employees, and the employer shall post and keep posted any such notice. R.S.O. 1970, c. 147, s. 37, *amended*.

PART XIV

OFFENCES AND PENALTIES

No
discipline,
dismissal,
etc., by
employer

57.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee,

- (e) has sought the enforcement of this Act or the regulations;
- (f) has given information to an employment standards officer;
- (g) has participated in or is about to participate in a proceeding or hearing under this Act; or
- (h) testifies or is required to testify in a proceeding or hearing under this Act. R.S.O. 1970, c. 147, s. 42 (1), *amended*.

Penalty for
offence

(2) Where an employer is convicted of an offence under subsection 1, the provincial judge making the conviction shall, in addition to the penalty, order what action the employer

shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with or without compensation or compensation in lieu of reinstatement for loss of wages and other benefits to be assessed against the employer. R.S.O. 1970, c. 147, s. 42 (2), *amended*.

(3) An employer who fails to comply with an order made under subsection 2 is guilty of an offence and on summary conviction is liable to a fine not exceeding \$100 for each day during which the failure continues. R.S.O. 1970, c. 147, s. 42 (3), *amended*. Offence, penalty

58. No person shall make, keep or produce or participate in, assent to or acquiesce in the making, keeping or producing of a false or deceptive book of account, payroll, record or other document required to be made, kept or produced under this Act or the regulations. R.S.O. 1970, c. 147, s. 43 (1), *part, amended*. Offence to keep false records, etc.

59.—(1) Every person who contravenes any provision of this Act or the regulations or a decision, requirement or order made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1970, c. 147, s. 43 (1), *part, amended*. Offence

(2) Where an employer is convicted of an offence under subsection 1, the provincial judge making the conviction shall, in addition to any other penalty, assess the amount unpaid in respect of an employee or employees and shall order the employer to pay the amount so assessed to the Director who shall collect and distribute to the employee or employees the amount ordered to be paid. R.S.O. 1970, c. 147, s. 43 (3), *amended*. Order for payment

(3) An order for payment under subsection 2 may be filed by the Director in a court of competent jurisdiction and thereupon the order shall be deemed to be an order of that court for the purposes of enforcement. R.S.O. 1970, c. 147, s. 43 (4), *amended*. Enforcement of order

60.—(1) Where a corporation contravenes any provision of this Act or the regulations, an officer, director or agent of the corporation or a person purporting to act in any such capacity who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted. Officers, etc., liable

Oonus of proof

(2) In determining whether for the purposes of subsection 1 an officer, director or agent of the corporation or a person purporting to act in any such capacity authorized, permitted or acquiesced in the contravention of any provisions of this Act or the regulations, it shall be for the officer, director or agent or person purporting to act in any such capacity to prove that he did not authorize, permit or acquiesce in the contravention.

Additional penalty

(3) Where an officer, director or agent of the corporation or a person purporting to act in any such capacity is convicted of an offence under subsection 1, the provincial judge making the conviction may, in addition to any other penalty, assess the amount unpaid by the corporation in respect of the employee and shall order the officer, director or agent to pay the amount so assessed to the Director who shall collect and distribute to the employee the amount ordered to be paid.

No prosecution without consent

(4) No prosecution under this section shall be instituted without the consent of the Director and the production of a consent purporting to be signed by the Director is admissible in evidence as *prima facie* proof of his consent. *New.*

Copies constitute evidence

61.—(1) In any proceeding or prosecution under this Act,

- (a) a copy of an order purporting to have been made under this Act or the regulations and purporting to have been signed by an employment standards officer or a referee; or
- (b) a document purporting to be a copy of a book, payroll, record or other document, or any extract therefrom, and purporting to be certified by an employment standards officer,

is evidence of the order or document, and the facts appearing in the order or document without proof of the signature or official character of the person appearing to have signed the order or the certificate and without further proof.

Certificate constitutes evidence

(2) In any proceeding or prosecution under this Act, a certificate purporting to be signed by the Director certifying that an employer has failed to make any payment under an order issued under this Act is evidence of the failure to pay without further proof. *New.*

Where information may be heard

62. An information in respect of an offence under this Act or the regulations may, at the election of the informant, be heard, tried and determined by the Provincial Court

(Criminal Division) having jurisdiction in the county or district in which the accused is resident or carries on business although the subject-matter of the information did not arise in that county or district. *New.*

63.—(1) No proceeding or prosecution under this Act ^{Limitation} shall be commenced more than two years after the facts upon which the proceeding or prosecution is based first came to the knowledge of the Director. R.S.O. 1970, c. 147, s. 43 (5), *amended.*

(2) In a proceeding or prosecution under this Act, no ^{Idem} employee shall be entitled to recover any moneys due to him more than two years before the facts upon which the proceeding or prosecution is based first came to the knowledge of the Director.

(3) A statement as to the time when the facts upon which the proceeding or prosecution is based first came to the knowledge of the Director purporting to be certified by the Director, is, without proof of the office or signature of the Director, evidence of the facts stated therein. *New.*

64. Notwithstanding anything contained in this Act, the Director may in his discretion refuse to institute any proceeding or prosecution for the failure of an employer to comply with this Act where a remedy therefor is available to an employee under the terms of a collective agreement. *New.*

PART XV

REGULATIONS

65.—(1) The Lieutenant Governor in Council may make ^{Regulations} regulations for carrying out the purposes of this Act and, without restricting the generality of the foregoing, may make regulations,

(a) establishing minimum rates of wages for employees or classes of employees;

(b) designating or defining any industry, activity, business, work, trade, occupation or profession or class of employers or employees, for the purposes of this Act or any Part thereof, or the regulations or any provision thereof;

(c) designating or defining the zone or zones within Ontario in which this Act, a Part of this Act, or the regulations or any provision thereof, is applicable;

- (d) exempting any industry, activity, business, work, trade, occupation, profession, or class of employers or employees from the application of this Act, a Part of this Act, or the regulations or any provision thereof;
- (e) prescribing what constitutes the performance of work in respect of which wages shall be paid;
- (f) prescribing the deductions that may be made from wages or any other payment or allowance to an employee;
- (g) prescribing the maximum number of hours that may elapse between the commencement and the termination of the daily work period or periods of an employee;
- (h) prescribing the particulars of employment that shall be given to an employee;
- (i) prescribing rates of pay and hours of work for the whole or part of any industry, business or trade in a designated part or parts of Ontario;
- (j) providing for and requiring the approval of the Director of any agreement or arrangement between an employer and an employee or his agent providing for the averaging of daily hours of work for a work week or daily or weekly hours of work over a longer period of time than a work week;
- (k) providing for the averaging of wages over a longer period of time than a work week for the purpose of determining a regular rate under this Act;
- (l) providing for the setting up of committees to advise the Minister on any matters arising in relation to the administration of this Act;
- (m) prescribing the manner of giving notice of termination and the period and the form and content of such notice;
- (n) prescribing what constitutes termination of employment;
- (o) prescribing what constitutes "a definite term or task", "lay-off", "temporary lay-off", "indefinite lay-off", and a "period of employment";

(p) providing that any payments to an employee by way of pension, insurance, workman's compensation, bonus, severance, supplementary unemployment benefits, or similar arrangements shall or shall not be taken into account on termination of employment;

(q) notwithstanding Part VI, prescribing when overtime pay shall be paid to an employee or class of employees by an employer, a class of employers, or an industry, business or trade for any hours of work in excess of a specified number of hours of work in a work week or a longer period of time than a work week;

(r) prescribing the hours of work after which overtime is payable in a work week to an employee who does two or more kinds of work for which different hours of work in a work week upon which overtime is payable are prescribed under this Act;

(s) prescribing maximum allowances for living accommodation, fuel, heat, utility charges or room or board to be taken into account in calculating minimum wages;

(t) prescribing the minimum number of hours for which an employee is entitled to be paid wages and providing for conditions and exemptions in respect thereof;

(u) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 147, s. 36 (1), amended.

(2) A regulation made under subsection 1 or any provision ^{Application} thereof may be confined in its application to any class of employer, employee or establishment defined in the regulation. R.S.O. 1970, c. 147, s. 36 (2).

66.—(1) Every agreement or arrangement between an employee and his employer for the averaging of hours over of work an extended period for the purpose of determining overtime hours of work heretofore approved by the Director under *The Employment Standards Act, 1968* or *The Employment Standards Act, 1968*, being chapter 147 of the Revised Statutes of Ontario, 1970, shall, on and after the 1st day of January, 1975, be deemed to provide for overtime pay for any hours worked in the extended period in excess of forty-four hours multiplied by the number of weeks in the extended period.

Idem

(2) Notwithstanding subsection 1, any agreement or arrangement between an employee and his employer for the averaging of hours of work over an extended period for the purpose of determining overtime hours of work heretofore approved by the Director under *The Employment Standards Act, 1968* or *The Employment Standards Act*, being chapter 147 of the Revised Statutes of Ontario, 1970, is null and void three months after the date this Act comes into force.

Repeals

67. The following are repealed:

1. *The Employment Standards Act*, being chapter 147 of the Revised Statutes of Ontario, 1970.
2. *The Employment Standards Amendment Act, 1972*, being chapter 120.
3. *The Employment Standards Amendment Act, 1973*, being chapter 172.
4. Section 37 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.

Commencement

68. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

69. This Act may be cited as *The Employment Standards Act, 1974*.

BILL 154

The Employment Standards Act, 1974

1st Reading

November 7th, 1974

2nd Reading

November 25th, 1974

3rd Reading

THE HON. J. MACBETH
Minister of Labour

(Reprinted as amended by the
Resources Development Committee)

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Publications

BILL 134

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23 ELIZABETH II, 1974

The Employment Standards Act, 1974

THE HON. J. MACBETH
Minister of Labour



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BILL 134**1974**

The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1. In this Act,

Interpre-
tation

(a) “Deputy Minister” means the Deputy Minister of Labour;

(b) “Director” means the person appointed by the Minister as Director of Employment Standards for the purposes of this Act;

(c) “employee” includes a person who,

(i) performs any work for or supplies any services to an employer for wages,

(ii) does homework for an employer, or

(iii) receives any instruction or training in the activity, business, work, trade, occupation or profession of the employer,

and includes a person who was an employee;

(d) “employer” includes any person who as the owner, proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession, has control or direction of, or is directly or indirectly responsible for, the employment of a person therein, and includes a person who was an employer;

(e) “employment standard” means a requirement imposed upon an employer in favour of an employee by this Act or the regulations;

- (f) “employment standards officer” means a person appointed for the purposes of this Act, and includes the Director;
- (g) “homework” means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof in premises occupied primarily as living accommodation, and “home-worker” has a corresponding meaning;
- (h) “Minister” means the Minister of Labour;
- (i) “Ministry” means the Ministry of Labour;
- (j) “overtime rate” means the hourly rate of pay that an employee is entitled to receive for hours of work in excess of,
 - (i) the hours of work in a week prescribed in section 25 or the regulations, or
 - (ii) the regular hours of work in a day or a week under a contract of employment that under subsection 2 of section 4 prevails over the provisions of section 25,
 and “overtime pay” has a corresponding meaning;
- (k) “premium rate” means the rate of pay to which an employee is entitled for each hour of employment on a public holiday, or a day that is deemed to be a public holiday, and “premium pay” has a corresponding meaning;
- (l) “public holiday” means New Year’s Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day;
- (m) “regular rate” means,
 - (i) the wage rate of an employee for an hour of work in a regular non-overtime work week,
 - (ii) where subclause i does not apply, the average hourly rate calculated by dividing the wages of an employee earned in a week by the number of hours the employee worked in that week where the employer has made and kept in accordance with this Act complete and accurate records thereof, or

- (iii) where subclauses i and ii do not apply, the hourly rate determined by an employment standards officer;
- (n) "regulations" means the regulations made under this Act;
- (o) "termination pay" means the amount of pay to which an employee is entitled under section 40;
- (p) "wages" means any monetary remuneration payable by an employer to an employee under the terms of a contract of employment, oral or written, express or implied, any payment to be made by an employer to an employee under this Act, and any allowances for room or board as prescribed in the regulations or under an agreement or arrangement therefor but does not include,
 - (i) tips and other gratuities,
 - (ii) any sums paid as gifts or bonuses that are dependent on the discretion of the employer and are not related to hours, production or efficiency,
 - (iii) travelling allowances or expenses,
 - (iv) contributions made by an employer to a fund, plan or arrangement to which Part X of this Act applies;
- (q) "week" means a period of seven consecutive days;
- (r) "work week" means a week of work established by the practice of the employer or determined by an employment standards officer. R.S.O. 1970, c. 147, s. 1, *amended.*

PART I

GENERAL APPLICATION

2.—(1) Parts IX, X, XI and XII apply to the Crown,^{Application of Act} every agency thereof and any board, commission, authority or corporation that exercises any functions assigned or delegated to it by the Crown. R.S.O. 1970, c. 147, ss. 12, 25 (6); 1972, c. 120, s. 1, *part, amended.*

Idem (2) This Act applies to every contract of employment, oral or written, express or implied,

- (a) where the employment is for work or services to be performed in Ontario; or
- (b) where the employment is for work or services to be performed both in and out of Ontario and the work or services out of Ontario are a continuation of the work or services in Ontario.

Non-application of 1971, c. 47 (3) Part I of *The Statutory Powers Procedure Act, 1971* does not apply to the exercise of any power conferred by section 5, 12, 16, 18, 20, 24, subsection 3 of section 25 or section 30, 32, subsection 4 of section 34 or section 39, 47 or 49 of this Act. *New.*

Waiver, etc., to be null and void 3. Subject to section 4, no employer, employee, employers' organization or employees' organization shall contract out of or waive an employment standard, and any such contracting out or waiver is null and void. R.S.O. 1970, c. 147, s. 3, *amended.*

Employment standard deemed minimum 4.—(1) An employment standard shall be deemed a minimum requirement only. *New.*

Greater benefit to prevail (2) A right, benefit, term or condition of employment under a contract, oral or written, express or implied, or under any other Act or any schedule, order or regulation made thereunder that provides in favour of an employee a higher remuneration in money, a greater right or benefit or lesser hours of work than the requirement imposed by an employment standard shall prevail over an employment standard. R.S.O. 1970, c. 147, s. 9, *amended.*

Provisions of collective agreements R.S.O. 1970, c. 232 5.—(1) Where terms or conditions of employment in a collective agreement as defined in *The Labour Relations Act* confer a higher remuneration in money or a greater right or benefit for an employee respecting holidays than the provisions of Part VII, the terms or conditions of employment shall prevail. 1973, c. 172, s. 1, *amended.*

Terms and conditions that are not in collective agreements (2) Where the Director finds that terms or conditions of employment in a contract of employment oral or written, express or implied, that are not in a collective agreement confer a higher remuneration in money or a greater right or benefit for an employee respecting holidays than the provisions of Part VII, the terms or conditions of employment shall prevail. *New.*

Civil remedy not suspended or affected 6. No civil remedy of an employee against his employer is suspended or affected by this Act. *New.*

PART II

GENERAL PROVISIONS

7.—(1) An employer shall pay to an employee all wages^{Payment of wages} to which an employee is entitled under,

- (a) an employment standard; or
- (b) a right, benefit, term or condition of employment under a contract of employment, oral or written, express or implied, that prevails over an employment standard,

in cash or by cheque.

(2) All wages shall be paid at the work place of the ^{Place of payment of wages} employee, or at a place agreed upon by the employer and the employee.

(3) All wages due and owing to an employee shall be paid ^{Time of payment of wages} by an employer on the regular pay day of the employee as established by the practice of the employer.

(4) Any payment to which an employee is entitled upon ^{Payment on termination} termination of employment shall be paid by the employer to the employee not later than seven days after termination of employment. *New.*

8. Except as permitted by the regulations, no employer ^{No set-off, etc., to be claimed against wages} shall claim a set-off against wages, make a claim against wages for liquidated or unliquidated damages or retain, cause to be returned to himself, or accept, directly or indirectly, any wages payable to an employee. R.S.O. 1970, c. 147, s. 4, *amended*.

9. No employer shall dismiss or suspend an employee ^{Garnishment not grounds for dismissal} upon the ground that garnishment proceedings are or may be taken against the employee. R.S.O. 1970, c. 147, s. 5.

10.—(1) An employer shall furnish to an employee at the ^{Statement of wages} time wages are paid to the employee a statement in writing, which can be retained by the employee, setting forth,

- (a) the period of time or the work for which the wages are being paid;
- (b) the rate of wages to which the employee is entitled unless such information is furnished to the employee in some other manner;

- (c) the amount of the wages to which the employee is entitled;
- (d) the amount of each deduction from the wages of the employee and the purpose for which each deduction is made;
- (e) any living allowance or other payment to which the employee is entitled; and
- (f) the net amount of money being paid to the employee. R.S.O. 1970, c. 147, s. 33, *amended*.

**Statement
of vacation
pay**

(2) Unless the information is given to an employee in some other manner, an employer shall furnish to an employee at the time vacation pay is paid to the employee a statement in writing which can be retained by the employee setting forth,

- (a) the period of time or the work for which the vacation pay is being paid;
- (b) the amount of the wages upon which the vacation pay is being paid;
- (c) the amount of each deduction from the vacation pay and its purpose; and
- (d) the net amount of vacation pay being paid to the employee. *New*.

Records

11.—(1) An employer shall,

- (a) make and keep in Ontario or in a place out of Ontario authorized by the Director for a period of twenty-four months after work is performed or services are supplied by an employee complete and accurate records in respect of the employee showing,
 - (i) the employee's name and address,
 - (ii) the employee's date of birth, if the employee is a student under eighteen years of age,
 - (iii) the number of hours worked by the employee in each day and week,
 - (iv) the employee's wage rate and gross earnings,

- (v) the amount of each deduction from the wages of the employee and the purpose for which each deduction is made,
 - (vi) any living allowance or other payment to which the employee is entitled,
 - (vii) the net amount of money being paid to the employee, and
 - (viii) any documents or certificates relating to pregnancy leave under Part XI; and
- (b) make and keep in Ontario or in a place out of Ontario authorized by the Director for a period of five years after work is performed by an employee complete and accurate records in respect of the employee showing.
- (i) the employee's name and address,
 - (ii) the date of commencement of employment and the anniversary date thereof, and
 - (iii) the employee's wages during each pay period and the vacations with pay or payment under section 31. R.S.O. 1970, c. 147, s. 38 (1), *amended*.

(2) Subclause iii of clause *a* of subsection 1 does not apply Exception in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty-four hours a week. R.S.O. 1970, c. 147, s. 38 (2), *amended*.

12.—(1) Where before or after this Act comes into force Related activities, etc., may be treated as one employer associated or related activities, businesses, trades or under-takings are or were carried on by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, under common control or direction, and a person is or was an employee of such corporations, individuals, firms, syndicates or associations, or any combination thereof, an employment standards officer may treat the corporations, individuals, firms, syndicates or associations as one employer for the purposes of this Act. R.S.O. 1970, c. 147, s. 6, *amended*.

Individual liability

(2) The corporations, individuals, firms, syndicates or associations treated as one employer shall be individually liable for any contravention of this Act and the regulations.
New.

Interpre-
ta-tion

13.—(1) In this section,

- (a) “business” includes an activity, trade or undertaking, or a part or parts thereof;
- (b) “sells” includes leases, transfers or any other manner of disposition and “sale” has a corresponding meaning.

Continuity of
employment

(2) Where an employer sells his business to a purchaser who employs an employee of the employer, the employment of the employee shall not be terminated by the sale, and the period of employment of the employee with the employer shall be deemed to have been employment with the purchaser for the purposes of Parts VII, VIII, XI and XII.

Part XII
to be
complied
with

(3) Where an employer sells his business to a purchaser who does not employ an employee of the employer, the employer shall comply with Part XII. R.S.O. 1970, c. 147, s. 7, *amended*.

Priority
of claims
R.S.C. 1970,
c. B-4

14. Notwithstanding the provisions of any other Act and except upon a distribution made by a trustee under the *Bankruptcy Act* (Canada), wages shall have priority to the claims or rights and be paid in priority to the claims or rights, including the claims or rights of the Crown, of all preferred, ordinary or general creditors of the employer to the extent of \$2,000 for each employee. R.S.O. 1970, c. 147, s. 8 (1), *amended*.

Vacation pay
deemed to
be held in
trust

15. Every employer shall be deemed to hold vacation pay accruing due to an employee in trust for the employee whether or not the amount therefor has in fact been kept separate and apart by the employer and the vacation pay becomes a lien and charge upon the assets of the employer that in the ordinary course of business would be entered in books of account whether so entered or not. R.S.O. 1970, c. 147, s. 8 (2), *amended*.

PART III

HOMEWORKERS

Application
for permit

16.—(1) An application for a permit to employ home-workers shall be made by the employer to the Director.

(2) No person shall employ a homeworker without a per-^{Permit}mit therefor issued by the Director.

(3) The Director may,

- (a) issue a permit on such terms and conditions as he considers advisable;
- (b) revoke or suspend a permit for a breach of a term or condition thereof, or where the holder is liable for a nuisance within the meaning of *The Public Health Act*, or for a contravention of any Act.

Terms,
conditions,
revocation
and
suspension
of permit

(4) Every employer shall keep a register and enter^{Register of}homeworkers therein the name and address of every homeworker to whom the employer gives homework, and the wages paid therefor.
R.S.O. 1970, c. 147, s. 32, *amended*.

PART IV

HOURS OF WORK

17. Except as otherwise provided in this Part, and subject to any schedule in force under *The Industrial Standards Act*, the hours of work of an employee shall not exceed eight in the day and forty-eight in the week.
R.S.O. 1970, c. 147, s. 14 (1), *amended*.

18. An employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty-eight hours in a week. R.S.O. 1970, c. 147, s. 15 (1), *amended*.

19. In case of an accident or in case of work urgently required to be done to machinery or plant, the employer may require the limit of hours of work prescribed by section 17 or approved under section 18 to be exceeded but only so far as may be necessary to avoid serious interference with the ordinary working of the establishment. R.S.O. 1970, c. 147, s. 16 (4), *amended*.

20.—(1) The Director may issue a permit authorizing hours of work in excess of those prescribed by section 17 or approved under section 18, but the excess hours of work shall not exceed,

- (a) in the case of an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman or other person who, in the opinion of the Director, is engaged in a similar occupation, twelve hours in each week for each employee; and
- (b) in the case of all other employees, 100 hours in each year for each employee. R.S.O. 1970, c. 147, s. 16 (1), *amended*.

Idem

(2) Where the Director is satisfied that the work or the perishable nature of raw material being processed requires hours of work in excess of those permitted under subsection 1, he may issue a permit therefor. R.S.O. 1970, c. 147, s. 16 (2), *amended*.

Permit
does not
obligate
employee

(3) The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of eight in the day or forty-eight in the week. R.S.O. 1970, c. 147, s. 18 (2), *amended*.

Terms and
conditions
of permit

(4) A permit issued under this section shall contain such terms, conditions and limitations as the Director prescribes. R.S.O. 1970, c. 147, s. 17, *amended*.

Agreements
subject to
maximums

21. Except as otherwise provided in this Part, no employer may require or permit work, and no employee may work or agree to work, any hours that exceed the maximum hours established under this Act. R.S.O. 1970, c. 147, s. 18 (1), *amended*.

Eating
periods

22. Every employer shall provide eating periods of at least one-half hour, or such shorter period as is approved by the Director, at such intervals as will result in no employee working longer than five consecutive hours without an eating period. R.S.O. 1970, c. 147, s. 20, *amended*.

PART V

MINIMUM WAGES

Statutory
agreement
for minimum
wage

23. Every employer who permits any employee to perform work or supply any services in respect of which a minimum wage is established shall be deemed to have agreed to pay to the employee at least the minimum wage established under this Act. R.S.O. 1970, c. 147, s. 22, *amended*.

24. For the purpose of enabling a handicapped person to ^{Handicapped employees} be gainfully employed, the Director may, upon the application of the handicapped person or his employer and with the consent of the handicapped person, his parent or guardian, authorize the employment of such handicapped person to perform such work as is authorized at a wage lower than the minimum wage prescribed under this Act. R.S.O. 1970, c. 147, s. 23, *amended*.

PART VI

OVERTIME PAY

25.—(1) Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty-four hours in any week, he shall be paid for each hour worked in excess of forty-four hours overtime pay at an amount not less than one and one-half times the regular rate of the employee. ^{Overtime pay}

(2) In complying with subsection 1, no employer shall ^{Idem} reduce the regular rate of wages payable to an employee. 1973, c. 172, s. 3, *amended*.

(3) Where an employer has not made and kept complete and accurate records in respect of an employee pursuant to clause *a* of subsection 1 of section 11, an employment standards officer may determine the regular rate of and the number of hours worked by the employee in each day and week. *New.* ^{Employment standards officer may determine regular rate}

PART VII

PUBLIC HOLIDAYS

26.—(1) This section does not apply to an employee ^{Application} who,

- (a) is employed for less than three months;
- (b) has not earned wages on at least twelve days during the four work weeks immediately preceding a public holiday;
- (c) fails to work his scheduled regular day of work preceding or his scheduled regular day of work following a public holiday;

(d) has agreed to work on a public holiday and who, without reasonable cause, fails to report for and perform the work; or

(e) is employed under an arrangement whereby the employee may elect to work or not when requested so to do. 1973, c. 172, s. 7, *part, amended.*

Holiday
with pay

(2) Subject to subsections 3, 4 and 5, an employer shall give to an employee a holiday on and pay to the employee his regular wages for each public holiday.

Working day
substituted
for holiday

(3) Where a public holiday falls upon a working day for an employee, an employer may with the agreement of the employee or his agent substitute another working day for the public holiday which day shall not be later than the next annual vacation of the employee, and the day so substituted shall be deemed to be the public holiday.

Holiday
that is a
non-working
day

(4) Where a public holiday falls on a non-working day for an employee or in his vacation an employer shall,

(a) with the agreement of the employee or his agent pay the employee his regular wages for the public holiday; or

(b) designate a working day that is not later than the next annual vacation of the employee and the day so designated shall be deemed to be the public holiday. 1973, c. 172, s. 7, *part, amended.*

Holiday
pay

(5) Notwithstanding subsection 3, where an employee is employed in a hotel, motel, tourist resort, restaurant, tavern, continuous operation or a hospital, and the employee is required to work and works on a public holiday, the employer shall,

(a) pay the employee in accordance with subsection 1 of section 27; or

(b) pay the employee for each hour worked on a public holiday an amount not less than his regular wages and give to the employee a holiday on his first working day immediately following his next annual vacation or on a working day agreed upon and pay him his regular wages for that day.

Interpre-
tation

(6) For the purposes of subsection 5,

(a) "continuous operation" means that part of an establishment, industry or service in which in each seven day period operations once commenced

normally continue day and night without cessation until the completion of the regularly scheduled operations for that period;

- (b) "hospital" means a hospital as defined in *The Hospital Labour Disputes Arbitration Act.* New. ^{R.S.O. 1970, c. 208}

27.—(1) Subject to subsection 5 of section 26, where an employee works on a public holiday, the employer shall pay to the employee for each hour worked a premium rate of not less than one and one-half times his regular rate and, where the employee is entitled to the holiday with pay, his regular wages in addition thereto. 1973, c. 172, s. 7, *part, amended.*

(2) Where an employee works on a public holiday, the hours the employee works on the public holiday shall not be taken into consideration in calculating any overtime pay to which the employee is entitled for the work week in which the public holiday occurs. *New.* ^{Work on holiday not overtime}

28. Where the employment of an employee ceases before the day that is substituted, designated or given for the public holiday under subsection 3, clause b of subsection 4, or clause b of subsection 5, of section 26, the employer shall pay to the employee in addition to any other payment to which the employee is entitled upon the ceasing of employment his regular wages for that day. *New.* ^{Payment for holiday where employment ceases}

PART VIII

VACATION WITH PAY

29.—(1) Every employer shall give to each employee a vacation with pay of at least two weeks upon the completion of each twelve months of employment. ^{Vacations}

(2) The amount of pay for such vacation shall be not less than an amount equal to 4 per cent of the wages of the employee in the twelve months of employment for which the vacation is given and in calculating wages no account shall be taken of any vacation pay previously paid. 1973, c. 172, s. 5, *part, amended.*

30.—(1) The employer shall determine the period when an employee may take the vacation to which he is entitled under section 29, which may be a two week period or two periods of one week each, but in any case the employee shall be given his vacation not later than ten months after the end of the twelve month period for which the vacation was given. ^{When vacation to be taken}

Director
may require
employer
to pay

(2) Notwithstanding subsection 1 of this section and subsection 3 of section 7, the Director may require an employer to pay to an employee at any time the vacation pay to which the employee is entitled under section 29. 1973, c. 172, s. 7, *part, amended.*

Idem

(3) Subsection 2 applies notwithstanding that there is a strike or lock-out as a result of a labour dispute. *New.*

Vacation
pay

31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 4 per cent of the wages of the employee in any twelve month period or periods or part thereof and in calculating wages no account shall be taken of any vacation pay previously paid. 1973, c. 172, s. 5, *part, amended.*

Agreements
respecting
vacation or
vacation
pay

32. Any agreement between an employer and an employee or employees or his or their agent respecting the method of providing funds for paying vacation pay, or payment in lieu of vacation, or of any arrangements for the taking of vacation, is subject to the approval of the Director. 1973, c. 172, s. 5, *part.*

PART IX

EQUAL PAY FOR EQUAL WORK

Equal pay
for equal
work

33.—(1) No employer or person acting on behalf of an employer shall differentiate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or *vice versa*, for substantially the same kind of work performed in the same establishment, the performance of which requires substantially the same skill, effort and responsibility and which is performed under similar working conditions, except where such payment is made pursuant to,

- (a) a seniority system;
- (b) a merit system;
- (c) a system that measures earnings by quantity or quality of production; or
- (d) a differential based on any factor other than sex.

Pay not to
be reduced

(2) No employer shall reduce the rate of pay of an employee in order to comply with subsection 1.

(3) No organization of employers or employees or its agents shall cause or attempt to cause an employer to agree to or to pay to his employees rates of pay that are in contravention of subsection 1.

(4) Where an employment standards officer finds that an employer has failed to comply with subsection 1, the employment standards officer may determine the amount of moneys owing to an employee because of such non-compliance, and such amount shall be deemed to be unpaid wages. R.S.O. 1970, c. 147, s. 25 (1-4), *amended*.

PART X

BENEFIT PLANS

34.—(1) This Part applies to a fund, plan or arrangement provided, furnished or offered or to be provided, furnished or offered by an employer to his employees,

- (a) under a term or condition of employment; or
- (b) in which an employee may elect to participate or not and to which the employer contributes or does not contribute,

that directly or indirectly provides benefits to his employees, their beneficiaries, survivors or dependants, whether payable periodically or not, for superannuation, retirement, unemployment, income replacement, death, disability, sickness, accident, or medical, hospital, nursing or dental expenses, or other similar benefits or benefits under a deferred profit sharing plan in which employees participate in profits of the employer where the profits accumulated under the plan are permitted to be withdrawn or distributed upon death or retirement or upon contingencies other than death or retirement.

(2) Except as provided in the regulations, no employer or person acting directly on behalf of an employer shall provide, furnish or offer any fund, plan, arrangement or benefit that differentiates or makes any distinction, exclusion or preference between his employees or a class or classes of his employees or their beneficiaries, survivors or dependants because of the age, sex or marital status of his employees.

(3) No organization of employers or employees, or person acting directly on behalf of an organization of employers

No differentiation
because of
age, etc.

Employer
not to be
requested to
contravene
subs. 2

or employees, shall cause or attempt to cause an employer, directly or indirectly, to act contrary to subsection 2.

Powers of
Director

(4) Where, in the opinion of the Director, an employer, an organization of employers or employees or a person acting directly on behalf of an employer or such organization may have acted contrary to subsection 2, the Director may exercise the power conferred by subsection 1 of section 51, and section 51 applies *mutatis mutandis*.

Regulations

(5) In addition to the powers conferred by section 65, the Lieutenant Governor in Council may make regulations respecting any matter or thing necessary or advisable to carry out the intent and purpose of this Part, and without restricting the generality of the foregoing, may make regulations,

- (a) exempting any fund, plan or arrangement or part thereof, heretofore or hereafter in existence, or any benefits thereunder from the application of this Part or any provision thereof;
- (b) permitting a fund, plan or arrangement to provide, furnish or offer a benefit or benefits that differentiate or make a distinction, exclusion or preference between employees or a class thereof or their beneficiaries, survivors or dependants;
- (c) suspending the application of this Part or any provision thereof to any fund, plan or arrangement or any benefits thereunder, whether provided, furnished or offered under a collective agreement or not, for such period or periods of time as may be prescribed;
- (d) providing that an employer may not reduce any benefits to an employee or class of employees under any fund, plan or arrangement provided, furnished or offered in order that the employer may comply with subsection 2;
- (e) providing the terms or conditions under which an employee may be entitled or disentitled to a benefit under a fund, plan or arrangement;
- (f) defining any expression used in this Part, or in the regulations under this Part. *New.*

PART XI

PREGNANCY LEAVE

35. No employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under section 36, but the employer may require the employee to commence a leave of absence pursuant to section 36 at such time as the duties of her position cannot reasonably be performed by a pregnant woman or the performance of her work is materially affected by the pregnancy. 1972, c. 120, s. 1, *part, amended.*

36.—(1) An employee who is pregnant and who has been employed by her employer for a period of at least twelve months and eleven weeks immediately preceding the estimated day of her delivery, whether such employment commenced before or after the coming into force of this Act, shall be entitled upon her application therefor to a leave of absence of at least seventeen weeks from her employment or such shorter leave of absence as the employee may request commencing during the period of eleven weeks immediately preceding the estimated day of her delivery.

(2) Notwithstanding subsection 1 and subject to subsection 5, where the actual date of her delivery is later than the estimated day of her delivery, the leave of absence shall not end before the expiration of six weeks following the actual date of her delivery.

(3) The employee shall give her employer two weeks notice in writing of the day upon which she intends to commence her leave of absence and furnish her employer with the certificate of a legally qualified medical practitioner stating that she is pregnant and giving the estimated day upon which delivery will occur in his opinion.

(4) Subject to subsection 5, an employee may, with the consent of her employer, shorten the duration of the leave of absence requested under subsection 1.

(5) An employee may shorten the duration of the six week period mentioned in subsection 2 upon giving her employer one week's notice of her intention so to do and furnishing her employer with the certificate of a legally qualified medical practitioner stating that she is able to resume her work. 1972, c. 120, s. 1, *part, amended.*

Leave
where
employee
ceases work

37. An employee who does not apply for leave of absence under section 36, and who is otherwise entitled to pregnancy leave thereunder, shall be entitled to and shall be granted leave of absence in accordance with section 36 upon providing her employer before the expiry of two weeks after she ceased to work with a certificate of a legally qualified medical practitioner stating that she was not able to perform the duties of her employment because of a medical condition arising from her pregnancy, and giving the estimated day upon which, in his opinion, delivery will occur or the actual date of her delivery. *New.*

Reinstatement
and
preservation
of seniority

38.—(1) An employee who intends to resume her employment on the expiration of a leave of absence granted to her under this Part shall so advise her employer and on her return to work her employer shall reinstate the employee to her position or provide her with alternative work of a comparable nature at not less than her wages at the time her leave of absence began and without loss of seniority or benefits accrued to the commencement of her leave of absence. 1972, c. 120, s. 1, *part, amended.*

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time her leave of absence began with no loss of seniority or benefits accrued to the commencement of her leave of absence, and in the absence of such a system or practice shall reinstate the employee in accordance with subsection 1. *New.*

Employment
standards
officer may
make order

39. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director in trust for the employee. *New.*

PART XII

TERMINATION OF EMPLOYMENT

Notice of
termination

40.—(1) No employer shall terminate the employment of an employee who has been employed for three months or more unless he gives,

(a) one week's notice in writing to the employee if his period of employment is less than two years;

- (b) two weeks notice in writing to the employee if his period of employment is two years or more but less than five years;
- (c) four weeks notice in writing to the employee if his period of employment is five years or more but less than ten years; and
- (d) eight weeks notice in writing to the employee if his period of employment is ten years or more,

and such notice has expired. R.S.O. 1970, c. 147, s. 13 (1), amended.

(2) Notwithstanding subsection 1, the notice required ^{Idem} by an employer to terminate the employment of fifty or more employees in any period of four weeks or less shall be given in the manner and for the period prescribed in the regulations, and until the expiry of such notice the termination shall not take effect. R.S.O. 1970, c. 147, s. 13 (2).

(3) Subsections 1 and 2 do not apply to,

Exceptions

- (a) an employee employed for a definite term or task;
 - (b) an employee who is temporarily laid off, as defined in the regulations;
 - (c) an employee who has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer;
 - (d) a contract of employment that is or has become impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance; or
 - (e) an employee employed in an activity, business, work, trade, occupation or profession, or any part thereof, that is exempted by the regulations.
- R.S.O. 1970, c. 147, s. 13 (3).

(4) Notwithstanding clause *d* of subsection 3, subsections 1 and 2 shall apply to an employee whose contract of employment is or has become impossible of performance or frustrated by an order, direction or notice made, given or issued against an employer under *The Environmental Protection Act, 1971*. 1973, c. 172, s. 2.

Employer to
co-operate
with Minister

(5) Where an employer is required to give the notice referred to in subsection 2 he shall co-operate with the Minister during the period of the notice in any action or program intended to facilitate the re-establishment in employment of the employees whose employment is to be terminated. R.S.O. 1970, c. 147, s. 13 (4).

Rate of
wages, etc..
not to be
altered

(6) Where the notice referred to in subsection 1 or 2 has been given,

- (a) no employer shall alter the rates of wages or any other term or condition of employment of any employee to whom notice has been given;
- (b) an employer shall pay to the employee during the period of notice the wages the employee is entitled to receive which in no case shall be less than his regular wages for a regular non-overtime work week; and
- (c) upon the expiry of the notice, the employer shall pay to the employee any wages or vacation pay to which he is entitled. R.S.O. 1970, c. 147, s. 13 (5), *amended.*

Where
employment
terminated
contrary
to section

(7) Where the employment of an employee is terminated contrary to this section, the employer shall pay the employee termination pay of an amount equal to the wages that the employee would have been entitled to receive at his regular rate for a regular non-overtime work week for the period of notice prescribed by subsection 1 or 2, and any wages to which he is entitled. *New.*

Notice by
employee

(8) An employee to whom notice has been given under subsection 2 shall not terminate his employment until after the expiry of,

- (a) one week's notice in writing to the employer if the period of employment is less than two years; or
- (b) two weeks notice in writing to the employer if the period of employment is two years or more,

unless his employer has been guilty of a breach of the terms and conditions of employment. R.S.O. 1970, c. 147, s. 13 (9, 10), *amended.*

PART XIII

ADMINISTRATION

41.—(1) The Minister is responsible for the administration of this Act. R.S.O. 1970, c. 147, s. 2 (1). Minister responsible for administration

(2) The Minister shall appoint a person to be the Director of Employment Standards for the purposes of the general administration of this Act and the regulations including the supervision and direction of employment standards officers. R.S.O. 1970, c. 147, s. 2 (2), *amended*. Director to be appointed

(3) Such persons as are considered necessary to enforce this Act and the regulations may be appointed as employment standards officers under *The Public Service Act*. *New*. Appointment of employment standards officers

R.S.O. 1970, c. 386

(4) Where the Director is absent or unable to act or where the office is vacant, the powers and duties of the Director shall be exercised and performed by an employee of the Ministry designated by the Minister. R.S.O. 1970, c. 147, s. 11, *amended*. Acting Director

42.—(1) The Minister shall appoint during his pleasure such persons to a panel of referees as he considers necessary for the purposes of this Act. Appointment of referees

(2) A referee shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. *New*. Remuneration

43.—(1) The Director may exercise the powers conferred and shall perform the duties imposed upon him under this Act. Powers and duties of Director

(2) The Director may authorize an employment standards officer orally or in writing to exercise a power conferred upon the Director under this Act. Authority to exercise power

(3) An employment standards officer may exercise the powers conferred and shall perform the duties imposed upon him under this Act. *New*. Powers and duties of employment standards officer

44.—(1) The Deputy Minister shall issue a certificate of appointment bearing his signature or a facsimile thereof to every employment standards officer. Certificate of appointment

(2) Every employment standards officer, in the exercise of any of his powers or the performance of any of his duties under this Act, shall produce his certificate of appointment upon request. *New*. Production of certificate

Powers of
employment
standards
officer

45.—(1) An employment standards officer may, for the purpose of ensuring that the provisions of this Act and the regulations are being complied with,

- (a) subject to subsection 2, enter in or upon the lands or premises of a person at any reasonable time or times without a warrant for the purpose of carrying out an inspection, audit or examination;
- (b) require the production for inspection, audit or examination of all books of account, documents, vouchers, payrolls, records, letters patent, by-laws, minutes of directors' meetings, or documents that are or may be relevant to the inspection, audit or examination;
- (c) upon giving a receipt therefor, remove any books, papers, records or documents examined under clause b for the purpose of making copies or extracts of such books, papers, documents, or things, but such copying shall be carried out with reasonable dispatch and the books, papers, records or documents shall be promptly returned thereafter to the person who produced or furnished them;
- (d) make any inquiries of any person separate or apart from another person that are or may be relevant to the inspection, audit or examination.

Entry into
dwelling

(2) No employment standards officer shall enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*. R.S.O. 1970, c. 147, s. 40, amended.

Employment
standards
officer not
competent or
compellable
as witness

(3) No employment standards officer is a competent or compellable witness in a civil suit or proceeding respecting any information, material or statements acquired, furnished, obtained, made or received under the powers conferred under this Act except for the purposes of carrying out his duties under this Act.

Production of
documents

(4) No employment standards officer shall be compelled or required to produce in a civil suit or proceeding any document, extract, report, material or statement acquired, furnished, obtained, made or received under the powers conferred under this Act except for the purposes of carrying out his duties under this Act. *New.*

46.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an employment standards officer in the exercise of a power or the performance of a duty under this Act. ^{Obstruction}

(2) Every person shall furnish all necessary means in his power to facilitate any entry, production, inspection, audit, examination or inquiry by an employment standards officer in the exercise of a power or the performance of a duty under this Act. ^{Assistance to officer}

(3) No person shall neglect or refuse to produce all books, ledgers, vouchers, payrolls, records, letters patent, minutes of directors' meetings, or documents that are or may be relevant to an inspection, audit or examination. ^{Production of records} *New.*

47.—(1) Where an employment standards officer finds ^{Powers} that an employee is entitled to any wages from an employer, he may,

- (a) arrange with the employer that the employer pay directly to the employee the wages to which the employee is entitled;
- (b) receive from the employer on behalf of the employee any wages to be paid to the employee as the result of a compromise or settlement; or
- (c) issue an order in writing to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled and such order shall provide in addition for payment by the employer to the Director of a penalty of 10 per cent of the wages or the sum of \$25, whichever is the greater, provided that the order shall not order the employer to pay a sum exceeding \$4,000 for an employee.

(2) Where an employment standards officer issues an order ^{Contents of order} under subsection 1, the order shall contain or have attached thereto information indicating the nature of the amount to be paid to an employee.

(3) An order issued under subsection 1 may order an employer to pay wages to one or more than one employee to which one or more than one employee is entitled for one or more than one failure to comply with a contract or more than one contract of employment or with this Act and the regulations. ^{Idem}

Delivery or service of order

(4) An order issued under subsection 1 shall be delivered to the employer by registered mail addressed to the employer at his or its last known place of business or served personally in the case of an individual and if the employer is a corporation upon the president, vice-president, secretary, treasurer, director, manager or person in charge of any branch of the corporation.

Certificate of service

(5) A certificate of the Director certifying that the order was served upon or sent by registered mail to the employer and accompanied by a true copy of the order is admissible as evidence of the issue, service, mailing and receipt of the order.

Compliance with order

(6) Every employer to whom an order is issued under subsection 1 shall comply with it in accordance with its terms. R.S.O. 1970, c. 147, s. 34, *amended*.

Payment to Director in trust

48.—(1) Where an employer has made an arrangement with an employment standards officer for the payment of wages to an employee under clause *a* of subsection 1 of section 47, or an employment standards officer has received wages from an employer for or on behalf of an employee under clause *b* of subsection 1 of section 47, and the employee cannot be conveniently located, the employer shall pay the wages to the Director in trust.

Wages to be held in trust

(2) Where wages have been received or collected for or on behalf of an employee by the Director in trust and the employee cannot be located, the wages shall be vested in and held in trust for Her Majesty and paid into the Consolidated Revenue Fund but may without interest thereon be paid out to the employee, his estate, or such other person as the Director considers is entitled thereto. *New*.

Order may be refused

49.—(1) Where, following a complaint in writing by an employee, an employment standards officer finds that an employer has paid the wages to which an employee is entitled under this Act he may refuse to issue an order to an employer and upon refusing to do so shall advise the employee of the refusal by prepaid letter addressed to the employee at his last known address.

Review of refusal to issue order

(2) An employee who considers himself aggrieved by the refusal to issue an order to an employer may apply to the Director in writing within fifteen days of the date of the mailing of the letter mentioned in subsection 1 for a review of the refusal and the Director shall cause the complaint to be reviewed by an employment standards officer who may exercise any power conferred under subsection 1 of section 47

or may refuse to issue an order, in which case he shall advise the employee of the refusal in accordance with subsection 1. *New.*

50.—(1) An employer who considers himself aggrieved by an order made under section 39 or 47, upon paying the wages ordered to be paid and the penalty thereon, if any, may, within a period of fifteen days after the date of delivery or service of the order, or such longer period as the Director may for special reasons allow and provided that the wages have not been paid out pursuant to subsection 2 of section 53, apply for a review of the order by way of a hearing.

(2) An application for review shall be made in writing to the Director and shall specify the grounds for the application.

(3) The review shall be heard as soon as is practicable by a Hearing referee selected by the Director from the panel of referees.

(4) The employer, the employment standards officer from whose order the application for review is taken and such other persons as the referee may specify are parties to an application for review under this section and on the review the employer shall be the applicant and the employment standards officer and such other persons specified by the referee, if any, shall be the respondents.

(5) Where a group or groups of persons having the same or substantially the same interest may be affected by the findings or opinions of the referee, the referee may specify one or more of the persons comprising the group or groups to represent the group or groups and the one or more so specified are parties to the review.

(6) On a review under this section, the referee may substitute his findings or opinions for those of the employment standards officer who issued the order being reviewed and may amend, rescind or affirm the order.

(7) A decision of the referee under this section is final and binding upon the parties thereto and such other parties as the referee may specify. R.S.O. 1970, c. 147, s. 34, *part, amended.*

51.—(1) Where an employment standards officer reports to the Director that an employer may have failed to pay the wages owing to an employee under this Act or to comply with this Act and the regulations, or is of the opinion that an act, agreement, arrangement or scheme is intended to have or has the effect, directly or indirectly, of defeating the

true intent and purpose of this Act and the regulations, the Director may appoint a referee selected by him from the panel of referees who shall hold a hearing.

Powers of referee

(2) The referee holding the hearing under subsection 1, may, *mutatis mutandis*, exercise the powers conferred upon an employment standards officer under this Act and in addition thereto or substitution therefor, where the referee determines that an act, agreement, arrangement or scheme is intended to have or has the effect, directly or indirectly, of defeating the true intent and purpose of this Act and the regulations, he shall state his findings of fact and issue to and cause to be served upon such person as he may direct an order requiring such person to cease and desist from the act, agreement, arrangement or scheme and may order what action, if any, the person shall take or what he shall refrain from doing in order to comply with this Act and the regulations.

Compliance with order

(3) Every employer or person to whom an order is given under subsection 2 shall comply with it in accordance with its terms.

Decision final and binding

(4) The order of the referee is final and not subject to review under section 50. R.S.O. 1970, c. 147, ss. 10, 34, amended.

Payment to Director

52.—(1) Where the Director has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to an employer who is liable to make any payment under this Act, he may, by registered letter or by a letter served personally, demand that the person pay the moneys otherwise payable to the employer in whole or in part to the Director in trust on account of the liability under this Act. R.S.O. 1970, c. 147, s. 35 (1), *amended*.

Receipt of Director

(2) The receipt of the Director for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. R.S.O. 1970, c. 147, s. 35 (2).

Liability to pay

(3) Every person who has discharged any liability to an employer who is liable to make a payment under this Act without complying with a demand under this section is liable to pay an amount equal to the liability discharged or the amount that he was required under this section to pay, whichever is the lesser. *New*.

Payment to employee

53.—(1) Where wages are received under clause *b* of subsection 1 of section 47, the Director shall pay to the employee or employees the wages received on his or their behalf.

(2) Where compensation or wages have been paid by an ^{Idem} employer under an order issued under section 39 or clause *c* of subsection 1 of section 47, and no application for review has been made to the Director under section 50 within a period of fifteen days from the date of delivery of the order or such longer period as the Director has allowed, the Director shall pay to the employee or employees the compensation or wages obtained on his or their behalf.

(3) Where an application for review under section 50 has ^{Payment after review} been made to the Director, the Director shall pay to the employee or the employees the wages owing, if any, in accordance with the decision of the referee and shall pay to the employer any moneys to which the employer is entitled under the decision.

(4) Where the moneys received by the Director under this ^{Moneys to be distributed} Act are insufficient to pay the wages due employees of an ^{rateably} employer in full, the Director shall distribute the moneys received by him, including any penalty, rateably among those employees on whose behalf the moneys were received.

(5) No action or proceeding lies or shall be instituted ^{No action to lie} against the Director for acting in compliance with this section.

54.—(1) Where an order has been made under this Act ^{Certificate of order} requiring an employer to pay any moneys to the Director for or on behalf of an employee or employees, the Director may issue a certificate thereof and cause the same to be filed in a court of competent jurisdiction and thereupon the certificate shall be enforceable as a judgment or order of the court at the instance and in favour of the Director in the same manner as a judgment or order of the court.

(2) The Director shall send a copy of the certificate to the ^{Copy of certificate} employer by registered mail and advise the employer of the date the certificate was filed. *New.*

55.—(1) The Director, for any purpose relating to the ^{Demand for information} administration or enforcement of this Act and the regulations, may, by registered letter addressed to an employer at his or its last known place of business or by demand served personally in the case of an individual and if the employer is a corporation upon the president, vice-president, secretary, treasurer or a director or the manager or person in charge of any branch of the corporation require the production for inspection, audit or examination of such books, papers, records or documents within such time and at such place as are stipulated in such letter or demand. R.S.O. 1970, c. 147, s. 41 (1), *amended.*

Neglect
or refusal
to produce

(2) No employer shall neglect or refuse to produce the books, papers, records or documents at the time and place stipulated in the letter or demand. *New.*

Proof
of service
or mailing

(3) A certificate of the Director certifying that the letter or demand was served upon or sent by registered letter to the employer to whom it was addressed, accompanied by a true copy of the letter or demand, is admissible as evidence of the service, mailing and receipt of the notice. R.S.O. 1970, c. 147, s. 41 (2), *amended.*

Posting of
notices

56. The Director may require an employer to post and keep posted a notice relating to the administration or enforcement of this Act or the regulations in a conspicuous place where it is most likely to come to the attention of his employees, and the employer shall post and keep posted any such notice. R.S.O. 1970, c. 147, s. 37, *amended.*

PART XIV

OFFENCES AND PENALTIES

No
discipline,
dismissal,
etc., by
employer

57.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee,

- (e) has sought the enforcement of this Act or the regulations;
- (f) has given information to an employment standards officer;
- (g) has participated in or is about to participate in a proceeding or hearing under this Act; or
- (h) testifies or is required to testify in a proceeding or hearing under this Act. R.S.O. 1970, c. 147, s. 42 (1), *amended.*

Penalty for
offence

(2) Where an employer is convicted of an offence under subsection 1, the provincial judge making the conviction shall, in addition to the penalty, order what action the employer

shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with or without compensation or compensation in lieu of reinstatement for loss of wages and other benefits to be assessed against the employer. R.S.O. 1970, c. 147, s. 42 (2), *amended*.

(3) An employer who fails to comply with an order made under subsection 2 is guilty of an offence and on summary conviction is liable to a fine not exceeding \$100 for each day during which the failure continues. R.S.O. 1970, c. 147, s. 42 (3), *amended*. Offence, penalty

58. No person shall make, keep or produce or participate in, assent to or acquiesce in the making, keeping or producing of a false or deceptive book of account, payroll, record or other document required to be made, kept or produced under this Act or the regulations. R.S.O. 1970, c. 147, s. 43 (1), *part, amended*. Offence to keep false records, etc.

59.—(1) Every person who contravenes any provision of this Act or the regulations or a decision, requirement or order made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1970, c. 147, s. 43 (1), *part, amended*. Offence

(2) Where an employer is convicted of an offence under subsection 1, the provincial judge making the conviction shall, in addition to any other penalty, assess the amount unpaid in respect of an employee or employees and shall order the employer to pay the amount so assessed to the Director who shall collect and distribute to the employee or employees the amount ordered to be paid. R.S.O. 1970, c. 147, s. 43 (3), *amended*. Order for payment

(3) An order for payment under subsection 2 may be filed by the Director in a court of competent jurisdiction and thereupon the order shall be deemed to be an order of that court for the purposes of enforcement. R.S.O. 1970, c. 147, s. 43 (4), *amended*. Enforcement of order

60.—(1) Where a corporation contravenes any provision of this Act or the regulations, an officer, director or agent of the corporation or a person purporting to act in any such capacity who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted. Officers, etc., liable

Onus of proof (2) In determining whether for the purposes of subsection 1 an officer, director or agent of the corporation or a person purporting to act in any such capacity authorized, permitted or acquiesced in the contravention of any provisions of this Act or the regulations, it shall be for the officer, director or agent or person purporting to act in any such capacity to prove that he did not authorize, permit or acquiesce in the contravention.

Additional penalty (3) Where an officer, director or agent of the corporation or a person purporting to act in any such capacity is convicted of an offence under subsection 1, the provincial judge making the conviction may, in addition to any other penalty, assess the amount unpaid by the corporation in respect of the employee and shall order the officer, director or agent to pay the amount so assessed to the Director who shall collect and distribute to the employee the amount ordered to be paid.

No prosecution without consent (4) No prosecution under this section shall be instituted without the consent of the Director and the production of a consent purporting to be signed by the Director is admissible in evidence as *prima facie* proof of his consent. *New.*

Copies constitute evidence **61.**—(1) In any proceeding or prosecution under this Act,

- (a) a copy of an order purporting to have been made under this Act or the regulations and purporting to have been signed by an employment standards officer or a referee; or
- (b) a document purporting to be a copy of a book, payroll, record or other document, or any extract therefrom, and purporting to be certified by an employment standards officer,

is evidence of the order or document, and the facts appearing in the order or document without proof of the signature or official character of the person appearing to have signed the order or the certificate and without further proof.

Certificate constitutes evidence (2) In any proceeding or prosecution under this Act, a certificate purporting to be signed by the Director certifying that an employer has failed to make any payment under an order issued under this Act is evidence of the failure to pay without further proof. *New.*

Where information may be heard **62.** An information in respect of an offence under this Act or the regulations may, at the election of the informant, be heard, tried and determined by the Provincial Court

(Criminal Division) having jurisdiction in the county or district in which the accused is resident or carries on business although the subject-matter of the information did not arise in that county or district. *New.*

63.—(1) No proceeding or prosecution under this Act^{Limitation} shall be commenced more than two years after the facts upon which the proceeding or prosecution is based first came to the knowledge of the Director. R.S.O. 1970, c. 147, s. 43 (5), *amended.*

(2) In a proceeding or prosecution under this Act, no^{Idem} employee shall be entitled to recover any moneys due to him more than two years before the facts upon which the proceeding or prosecution is based first came to the knowledge of the Director.

(3) A statement as to the time when the facts upon which^{Evidence} the proceeding or prosecution is based first came to the knowledge of the Director purporting to be certified by the Director, is, without proof of the office or signature of the Director, evidence of the facts stated therein. *New.*

64. Notwithstanding anything contained in this Act, the Director may in his discretion refuse to institute any proceeding or prosecution for the failure of an employer to comply with this Act where a remedy therefor is available to an employee under the terms of a collective agreement. *New.*

PART XV

REGULATIONS

65.—(1) The Lieutenant Governor in Council may make^{Regulations} regulations for carrying out the purposes of this Act and, without restricting the generality of the foregoing, may make regulations,

- (a) establishing minimum rates of wages for employees or classes of employees;
- (b) designating or defining any industry, activity, business, work, trade, occupation or profession or class of employers or employees, for the purposes of this Act or any Part thereof, or the regulations or any provision thereof;
- (c) designating or defining the zone or zones within Ontario in which this Act, a Part of this Act, or the regulations or any provision thereof, is applicable;

- (d) exempting any industry, activity, business, work, trade, occupation, profession, or class of employers or employees from the application of this Act, a Part of this Act, or the regulations or any provision thereof;
- (e) prescribing what constitutes the performance of work in respect of which wages shall be paid;
- (f) prescribing the deductions that may be made from wages or any other payment or allowance to an employee;
- (g) prescribing the maximum number of hours that may elapse between the commencement and the termination of the daily work period or periods of an employee;
- (h) prescribing the particulars of employment that shall be given to an employee;
- (i) prescribing rates of pay and hours of work for the whole or part of any industry, business or trade in a designated part or parts of Ontario;
- (j) providing for and requiring the approval of the Director of any agreement or arrangement between an employer and an employee or his agent providing for the averaging of daily hours of work for a work week or daily or weekly hours of work over a longer period of time than a work week;
- (k) providing for the averaging of wages over a longer period of time than a work week for the purpose of determining a regular rate under this Act;
- (l) providing for the setting up of committees to advise the Minister on any matters arising in relation to the administration of this Act;
- (m) prescribing the manner of giving notice of termination and the period and the form and content of such notice;
- (n) prescribing what constitutes termination of employment;
- (o) prescribing what constitutes "a definite term or task", "lay-off", "temporary lay-off", "indefinite lay-off", and a "period of employment";

- (p) providing that any payments to an employee by way of pension, insurance, workman's compensation, bonus, severance, supplementary unemployment benefits, or similar arrangements shall or shall not be taken into account on termination of employment;
 - (q) notwithstanding Part VI, prescribing when overtime pay shall be paid to an employee or class of employees by an employer, a class of employers, or an industry, business or trade for any hours of work in excess of a specified number of hours of work in a work week or a longer period of time than a work week;
 - (r) prescribing the hours of work after which overtime is payable in a work week to an employee who does two or more kinds of work for which different hours of work in a work week upon which overtime is payable are prescribed under this Act;
 - (s) prescribing maximum allowances for living accommodation, fuel, heat, utility charges or room or board to be taken into account in calculating minimum wages;
 - (t) prescribing the minimum number of hours for which an employee is entitled to be paid wages and providing for conditions and exemptions in respect thereof;
 - (u) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 147, s. 36 (1), *amended*.
- (2) A regulation made under subsection 1 or any provision Application thereof may be confined in its application to any class of employer, employee or establishment defined in the regulation. R.S.O. 1970, c. 147, s. 36 (2).

66.—(1) Every agreement or arrangement between an employee and his employer for the averaging of hours over of work an extended period for the purpose of determining overtime hours of work heretofore approved by the Director under *The Employment Standards Act, 1968* or *The Employment Standards Act*, being chapter 147 of the Revised Statutes of Ontario, 1970, shall, on and after the 1st day of January, 1975, be deemed to provide for overtime pay for any hours worked in the extended period in excess of forty-four hours multiplied by the number of weeks in the extended period.

Idem (2) Notwithstanding subsection 1, any agreement or arrangement between an employee and his employer for the averaging of hours of work over an extended period for the purpose of determining overtime hours of work heretofore approved by the Director under *The Employment Standards Act, 1968* or *The Employment Standards Act*, being chapter 147 of the Revised Statutes of Ontario, 1970, is null and void three months after the date this Act comes into force.

Repeals

67. The following are repealed:

1. *The Employment Standards Act*, being chapter 147 of the Revised Statutes of Ontario, 1970.
2. *The Employment Standards Amendment Act, 1972*, being chapter 120.
3. *The Employment Standards Amendment Act, 1973*, being chapter 172.
4. Section 37 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.

Commencement

68. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

69. This Act may be cited as *The Employment Standards Act, 1974*.

The Employment Standards Act, 1974

1st Reading

November 7th, 1974

2nd Reading

November 25th, 1974

3rd Reading

December 20th, 1974

THE HON. J. MACBETH
Minister of Labour

BILL 135

Government Bill

CAZON

X B

-B 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

**An Act to amend
The Ministry of Colleges and Universities Act, 1971**

THE HON. J. A. C. AULD
Minister of Colleges and Universities



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill to amend *The Ontario Universities Capital Aid Corporation Act* adds the Ontario College of Art as an institution whose lands or debentures may be purchased by The Ontario Universities Capital Aid Corporation; this complementary Bill empowers the Minister of Colleges and Universities to determine the amount of any capital expenditure of the Ontario College of Art that may be financed through The Ontario Universities Capital Aid Corporation.

BILL 135**1974****An Act to amend****The Ministry of Colleges and Universities Act, 1971**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 5 of *The Ministry of Colleges and Universities Act, 1971*, being chapter 66, is repealed and the following substituted therefor:

(1) The Minister may determine the amount of any capital expenditure of a university or a college of applied arts and technology or of Ryerson Polytechnical Institute, the Art Gallery of Ontario, The Royal Ontario Museum or the Ontario College of Art that may be financed through The Ontario Universities Capital Aid Corporation, and debentures may be purchased from a university or a college of applied arts and technology or from Ryerson Polytechnical Institute, the Art Gallery of Ontario, The Royal Ontario Museum or the Ontario College of Art by the Corporation only on the recommendation of the Minister.

2. This Act comes into force on the day it receives Royal Assent.
3. This Act may be cited as *The Ministry of Colleges and Universities Amendment Act, 1974*, (No. 2).

Capital
expenditures
financed
through
The Ontario
Universities
Capital Aid
Corporation

BILL 135

An Act to amend
The Ministry of Colleges
and Universities Act, 1971

1st Reading

November 7th, 1974

2nd Reading

3rd Reading

THE HON. J. A. C. AULD
Minister of Colleges and Universities

(*Government Bill*)

CA2ON

XB

-B 56

BILL 135

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend
The Ministry of Colleges and Universities Act, 1971

THE HON. J. A. C. AULD
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1. Subsection 1 of section 5 of *The Ministry of Colleges and Universities Act, 1971*, being chapter 66, is repealed and the following substituted therefor: s. 5 (1),
re-enacted

(1) The Minister may determine the amount of any capital expenditure of a university or a college of applied arts and technology or of Ryerson Polytechnical Institute, the Art Gallery of Ontario, The Royal Ontario Museum or the Ontario College of Art that may be financed through The Ontario Universities Capital Aid Corporation, and debentures may be purchased from a university or a college of applied arts and technology or from Ryerson Polytechnical Institute, the Art Gallery of Ontario, The Royal Ontario Museum or the Ontario College of Art by the Corporation only on the recommendation of the Minister.

Capital expenditures
financed
through
The Ontario
Universities
Capital Aid
Corporation

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. This Act may be cited as *The Ministry of Colleges and Universities Amendment Act, 1974*, (No. 2). Short title

BILL 135

An Act to amend
The Ministry of Colleges
and Universities Act, 1971

1st Reading

November 7th, 1974

2nd Reading

November 28th, 1974

3rd Reading

November 28th, 1974

THE HON. J. A. C. AULD
Minister of Colleges and Universities

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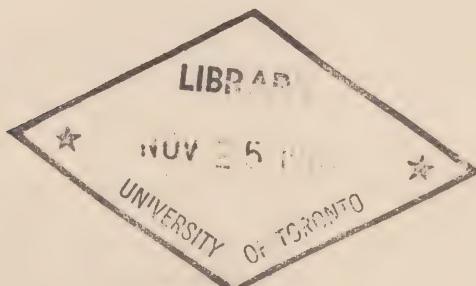
BILL 136

Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Land Transfer Tax Act, 1974

THE HON. A. K. MEEN
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The amendment includes as a "conveyance" notices or cautions of instruments by which land is conveyed. Such notices or cautions may be registered without registration of the conveyance referred to in the notice, and in many cases such notices or cautions have the same effect as if the conveyance had been registered.

Subsection 2. The amendments provide that a corporation whose shares are owned by a corporation incorporated outside Canada will not be a non-resident corporation unless the shares are owned by a non-resident person. Without this amendment, clause f has the effect that a corporation whose shares were owned by a corporation incorporated outside Canada would be defined as a non-resident corporation although the corporation that owned the shares might be a resident corporation because it, in turn, had issued its shares to persons who were not non-resident persons. The non-residence of a corporation or chain of corporations will, following the amendments, depend on the residence or non-residence of the shareholders who control the corporation or chain of corporations.

Subsection 3. The amendment clarifies the application of subclause ii, and provides that a trust will not be made a non-resident person simply because the settlor of the trust was non-resident at the time the trust was established. Following the amendment, the trust will be a non-resident person only if 50 per cent or more of the beneficial interests in the trust are held by non-resident persons.

BILL 136**1974**

**An Act to amend
The Land Transfer Tax Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *c* of subsection 1 of section 1 of *The Land Transfer Tax Act, 1974*, being chapter 8, is amended by adding at the end thereof “and a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed”.
- (2) Clause *f* of subsection 1 of the said section 1 is amended, <sup>s. 1(1)(f),
amended</sup>
 - (a) by striking out “individuals who are non-resident persons, or by one or more corporations incorporated, formed or organized elsewhere than in Canada, or by any combination of such individuals and corporations” in the eighth, ninth, tenth, eleventh, twelfth and thirteenth lines and inserting in lieu thereof “non-resident persons”;
 - (b) by striking out “individual who is a non-resident person, or by any one corporation incorporated, formed, or organized elsewhere than in Canada” in the eighteenth, nineteenth, twentieth and twenty-first lines, by striking out “individual or corporation” in the twenty-fourth line and in the twenty-seventh line and inserting in lieu thereof in each instance “non-resident person”; and
 - (c) by striking out “, including a non-resident corporation within the definition contained in the provisions of this clause other than this subclause” in the thirty-ninth, fortieth, forty-first and forty-second lines.
- (3) Clause *g* of subsection 1 of the said section 1 is amended <sup>s. 1(1)(g),
amended</sup> by striking out “partnership property” in the fourteenth

line and inserting in lieu thereof "property of such partnership, syndicate, association or other organization" and by striking out "established by a non-resident person within the meaning of subclause i, ii or iv or" in the seventeenth, eighteenth and nineteenth lines.

s. 1 (1) (m),
amended

(4) Clause *m* of subsection 1 of the said section 1 is amended by striking out "or" at the end of subclause iii and by adding thereto the following subclauses:

(v) in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of subsection 4, the fair market value, ascertained as at the time of the tender for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed, or

(vi) in the case of a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed and that is not a notice in writing described in subclause v, the value of the consideration, determined under subclauses i to iv, for the land conveyed by the instrument or writing that is referred to in such notice or caution in writing that is not a notice in writing described in subclause v.

s. 1 (3) (a),
repealed

(5) Clause *a* of subsection 3 of the said section 1 is repealed.

s. 1,
amended

(6) The said section 1 is amended by adding thereto the following subsection:

No tax on
certain
leases

(4) Notwithstanding any other provision of this Act, no tax is payable on the tender for registration of a conveyance that is a lease of land, the transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land if the lease, at the time the lease or transfer or notice of either of them is tendered for registration, is for an unexpired term which, including any renewals or extensions of such term provided for in the lease, cannot exceed fifty years.

Subsection 4. The amendment provides for the determination of the value of consideration in the case of leases exceeding fifty years and in the case of the registration of a notice or caution in writing included as a conveyance by the amendment made to clause *c* of subsection 1 of section 1 of the Act. In the case of leases, a subsequent amendment will provide for the exemption of leases that do not exceed fifty years, and in the case of notices or cautions of instruments that convey land, a subsequent amendment will provide for a refund of any tax paid where the notice or caution registered is of an agreement that is not completed.

Subsection 5. The meaning of the expression "ordinarily resident" is altered to remove the provision making a landed immigrant ordinarily resident in Canada immediately upon his admission to Canada for permanent residence. During the 366 days following his admission to Canada, the exemptions from the higher rate of tax and the deferrals of tax to be proposed in amendments to section 16 of the Act will be available to the landed immigrant.

Subsection 6. This amendment exempts from tax leases, assignments of leases, and notices of such leases or assignments if the unexpired term in the lease cannot exceed fifty years at the time the instrument is tendered for registration. Under amendments proposed earlier to clause *m* of subsection 1 of section 1 of the Act, leases, assignments, and notices thereof that are not exempt from tax will have a value of consideration equal to the fair market value of the land to which the lease extends or the fair market value of a part of that land where only a part of the land is dealt with in the lease or assignment.

SECTION 2.—Subsection 1. The amendment clarifies that where in the same transaction more than one conveyance is registered and the value of the consideration applies to both conveyances, tax is payable only once.

Subsection 2. This amendment clarifies that the certification provided for in subsection 5 may be given where no tax is payable.

SECTION 3.—Subsection 1. This amendment is consequential on the addition of subsection 7 to section 4.

Subsection 2. The purpose of this amendment is to dispense with the filing of an affidavit of residence where the transferee named in the conveyance cannot be a non-resident person. Provision is also made to enable the Minister to prescribe by regulation corporations and individuals acting in an official capacity who, for example, by virtue of the statute that creates them or gives them authority, are not non-resident persons.

SECTION 4. Section 6 of the Act is repealed because its purpose has been served, and the special lien created by the section is no longer of any effect.

SECTION 5. This amendment provides that where a notice or caution in writing is registered of a conveyance that is an agreement to transfer or extinguish an interest in land, and where tax is paid on the registration of the notice, the tax is to be refunded if the agreement is not completed.

2.—(1) Subsection 3 of section 2 of the said Act is amended by <sup>s. 2 (3),
amended</sup> adding at the end thereof “and where the Minister or a collector is satisfied that the value of the consideration for a conveyance that has been registered is the value of the consideration for a subsequently registered conveyance that does not create with respect to the land conveyed any beneficial interest therein in any person beyond that evidenced by the first mentioned conveyance, and if the conveyances are made as part of the same transaction, tax is payable only once and upon the value of the consideration for the first of such conveyances that was registered”.

(2) Subsection 5 of the said section 2 is amended by inserting <sup>s. 2 (5),
amended</sup> after “paid” in the fourth line “or that no tax is payable” and by inserting after “that” where it occurs in the first instance in the ninth line “no tax is payable or that”.

3.—(1) Subsection 6 of section 4 of the said Act is amended by <sup>s. 4 (6),
amended</sup> adding at the commencement thereof “Except as provided in subsection 7.”.

(2) The said section 4 is amended by adding thereto the <sup>s. 4,
amended</sup> following subsection:

(7) Notwithstanding subsection 3, no affidavit is required <sup>Affidavit as
to residence
not required</sup> under that subsection on the tender for registration of a conveyance to or in trust for a transferee who is expressly named in the conveyance and who is Her Majesty in right of Ontario, Her Majesty in right of Canada, a Crown agency within the meaning of *The Crown Agency Act*, the corporation <sup>R.S.O. 1970,
cc. 100, 118</sup> of a municipality, including a district, metropolitan or regional municipality, in Ontario, a local board, as defined in *The Municipal Affairs Act*, of any such municipality in Ontario or Ontario Hydro or any corporation prescribed by the Minister by regulation or any individual acting in an official capacity prescribed by the Minister by regulation, but the Minister may make regulations under this subsection only if he is satisfied that the corporation or the official capacity of the individual is such that the corporation or the individual acting in his official capacity is not, and is not likely to become, a non-resident person.

4. Section 6 of the said Act is repealed.

<sup>s. 6,
repealed</sup>

5. Section 8 of the said Act is amended by adding thereto the <sup>s. 8,
amended</sup> following subsection:

(3) Where a conveyance is registered that is a notice or <sup>Refund of
tax where
land not
transferred</sup> caution in writing signifying the existence of any instru-

ment or writing by which land is conveyed, and the instrument or writing described in the notice or caution evidences an agreement to transfer or extinguish an interest in land, the Treasurer shall, where the Minister is satisfied that the transfer or extinguishment contemplated in the agreement has not taken place, refund any tax paid on the tender for registration of the conveyance.

s. 14 (2),
amended

- 6.** Subsection 2 of section 14 of the said Act is amended by striking out "the designated land the tax imposed on which is under appeal" in the sixth and seventh lines and inserting in lieu thereof "the land the tax on the tender for registration of a conveyance of which is under appeal".

s. 16 (1),
re-enacted

- 7.—(1)** Subsection 1 of section 16 of the said Act is repealed and the following substituted therefor:

Deferral or
remission of
tax on
certain
conveyances
to non-
residents

(1) Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person, and that non-resident person satisfies the Minister that the land was or is to be acquired,

- (a) for the purpose of the development and resale of land for residential, commercial or industrial purposes;
- (b) for the purpose of establishing, expanding or relocating any active commercial or industrial business that is or will be carried on by the non-resident person who shall undertake to obtain, within such time as is agreed upon with the Minister, any zoning changes necessary to permit the land to be used as proposed and to complete, within such time as is agreed upon with the Minister, the establishment, expansion or relocation for which the land was or is to be acquired;
- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within five years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;
- (d) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;

SECTION 6. The amendment removes a reference to designated land, and substitutes a reference to the land the registration of the conveyance of which has given rise to tax that is under appeal.

SECTION 7.—Subsection 1. The amendment specifies a number of cases in which the Minister, with the approval of the Lieutenant Governor in Council, is empowered to defer or remit tax conditional on the performance of obligations undertaken by a person acquiring the land with respect to which the deferral or remission is authorized.

Subsection 2. The amendment is consequential on the re-enactment of subsection 4 of section 16.

- (e) by a non-resident corporation that is a non-resident person because of the ownership of shares in that corporation, whether directly or indirectly, by a non-resident person described in clause *c* who undertakes to the Minister that the corporation will cease to be a non-resident person within five years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;
- (f) by a non-resident corporation that is a non-resident person because of the ownership of shares in that corporation, whether directly or indirectly, by a non-resident person described in clause *d* who undertakes to the Minister that the corporation will cease to be a non-resident person within two years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land; or
- (g) by a non-resident corporation that undertakes to the Minister to cease to be a non-resident corporation within five years from the date of the grant of the deferral or remission under this subsection with respect to the acquisition of the land,

the Minister may, with the approval of the Lieutenant Governor in Council, defer the payment of the tax, or remit the tax paid, on such conditions as to the use and development of the land or otherwise as are considered advisable and sufficient to ensure the development of the land as proposed or compliance with any undertakings given by the non-resident person acquiring the land, and any tax deferred or remitted under this subsection constitutes a first lien and charge in favour of Her Majesty in right of Ontario on the land so acquired or to be acquired, and the lien and charge shall be effective upon registration by the Minister of a notice thereof, and the Minister may discharge the lien and charge in whole or in part as the conditions that he has imposed or the undertakings that have been given to him are fulfilled or complied with, and may, where he considers it necessary and advisable to enable the performance of any condition or undertaking, postpone, release or waive the lien and charge with respect to all or any part of any land affected by the lien and charge.

- (2) Subsection 2 of the said section 16 is amended by <sup>s. 16 (2),
amended</sup> striking out “, or a rebate under subsection 4,” in the first and second lines.

s. 16 (4),
re-enacted

Reduction of
tax in
certain cases

R.S.C. 1970,
c. I-2

(3) Subsection 4 of the said section 16 is repealed and the following substituted therefor:

(4) Upon the tender for registration of a conveyance that is described in any of clauses *a* to *e* and that is made to a non-resident person, the tax imposed by subsection 2 of section 2 shall, notwithstanding any other provision of this Act, be reduced to an amount equal to the tax that would result if only the rates of tax mentioned in subsection 1 of section 2 were applicable,

(a) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,

(i) that he has been lawfully admitted to Canada and is lawfully in Canada as an immigrant admitted under the *Immigration Act* (Canada) for permanent residence in Canada, or that he is lawfully in Canada for the purpose of engaging in a trade, profession, calling, occupation or employment that he is authorized to engage in in Canada, and the nature of that trade, profession, calling, occupation or employment,

(ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon his principal residence in Canada, and will not be used as the residence of persons other than the transferee or members of his family or members of his usual domestic establishment,

(iii) the number and expiration date of the employment visa, if any, issued to him pursuant to the *Immigration Act* (Canada) or regulations made thereunder and the length of time during which he intends to engage in the trade, profession, calling, occupation or employment for which he was admitted into Canada, and

(iv) that he is not in Canada as a tourist or visitor or for the purpose of passing through Canada to another country, or as a student admitted to Canada under the provisions of paragraph *f* of subsection 1 of section 7 of the *Immigration Act* (Canada);

Subsection 3. This amendment re-enacts subsection 4 and adds two new subsections to section 16. Subsection 4 deals with certain conveyances to non-resident persons on which the tax is reduced from 20 per cent to the rates of tax specified in subsection 1 of section 2 of the Act. The conveyances for which this reduction is available must have attached to them an affidavit of the transferee to whom the conveyance is made which will state the existence of the conditions entitling the person tendering the conveyance for registration to a reduction of the tax otherwise imposed by the Act.

The addition of subsection 5 deals with the situation where land is expropriated or is sold to some authority in a position to expropriate the land. Where the person who has lost the land wishes to acquire additional land to replace it, the value of the consideration for the additional land is to be reduced by the amount of compensation attributable to the land that was expropriated or sold under threat of expropriation.

The addition of subsection 6 creates an offence where a person knowingly makes a false affidavit required by subsection 4.

- (b) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,
 - (i) that the transferee is a Canadian citizen, and
 - (ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon a place of residence or recreation to be his principal residence or principal recreational property upon his return to Canada to take up permanent residence in Canada;
- (c) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,
 - (i) that the transferee, on and after the 9th day of April, 1974, has continuously occupied premises in Canada where the transferee carried on an active commercial or industrial business that is not principally,
 - (A) the rental of land or premises for possession or occupancy for a period of one month or more,
 - (B) the acquisition of land,
 - (C) the sale of land owned by the seller,
 - (D) the holding of land, or
 - (E) the development of land,
 - (ii) the nature of such business so carried on by the transferee, and the principal location in Canada from which such business is carried on, and
 - (iii) that the land being conveyed to the transferee is zoned for commercial or industrial use and is being acquired for the purpose of expanding or relocating the operations of such business or for the purpose of acquiring the freehold of leased premises on which such business is being carried on;

(d) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, and stating that the land being conveyed to him is being acquired by him as part of his normal business practice and either for the purpose of reselling the land to an employee of the transferee as the residence of that employee or for the purpose of making the land available for the exclusive use of his employees as a residence during their employment; or

(e) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,

(i) that the land being conveyed to him is being acquired by him as the result of a final order of foreclosure under a mortgage or charge affecting the land or is being acquired in any other manner for the sole purpose of satisfying the obligations of the transferor to the transferee under a mortgage or charge affecting the land,

(ii) that the land being conveyed to him is being acquired by him only for the purpose of safeguarding or giving effect to rights or interests of the transferee as mortgagee or chargee and in respect of an outstanding loan that was owed by the transferor to the transferee and that is in default,

(iii) that the transferee is dealing in all respects with the transferor as though the parties were strangers, and

(iv) that the conveyance was not arranged with the intention of defeating the incidence of tax imposed by this Act.

(5) Where it is established to the satisfaction of the Minister that land being acquired by a person is acquired for the purpose of replacing land that was taken from him under statutory authority, that was sold by him to a person by whom notice of an intention to take the land under statutory authority was given, or that was sold

Reduction of
consideration on land
acquired to
replace land
compulsorily
taken

by him to a person having the power to take the land under statutory authority and in the reasonable expectation that, had the land not been so sold, it would have been taken from him by that person under statutory authority, the value of the consideration for the land being so acquired shall be reduced by an amount equal to the proceeds of sale reasonably attributable to the land that was so taken or sold.

(6) Every person who, knowing it to be false, makes an ^{Offence} affidavit described in subsection 4, is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$1,000.

- 8.—(1) This Act, except section 4, comes into force on the ^{Commencement} day it receives Royal Assent.
- (2) Section 4 shall be deemed to have come into force ^{Idem} on the 10th day of April, 1974.
9. This Act may be cited as *The Land Transfer Tax Amendment* ^{Short title} Act, 1974 (No. 2).

BILL 136

An Act to amend
The Land Transfer Tax Act, 1974

1st Reading

November 8th, 1974

2nd Reading

3rd Reading

THE HON. A. K. MEEN
Minister of Revenue

(*Government Bill*)

CAZON
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-B 56

BILL 136

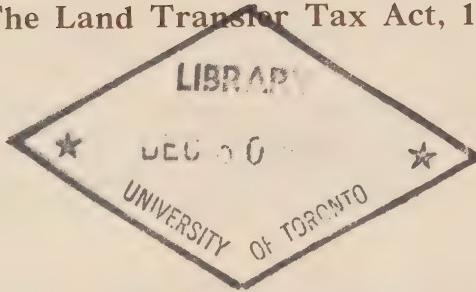
Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

Government
Publications

~~Legislative Assembly
Bill~~

An Act to amend The Land Transfer Tax Act, 1974



THE HON. A. K. MEEN
Minister of Revenue

(Reprinted as amended by the Administration of Justice Committee)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The amendment includes as a “conveyance” notices or cautions of instruments by which land is conveyed. Such notices or cautions may be registered without registration of the conveyance referred to in the notice, and in many cases such notices or cautions have the same effect as if the conveyance had been registered.

Subsection 2.—The amendments provide that a corporation whose shares are owned by a corporation incorporated outside Canada will not be a non-resident corporation unless the shares are owned by a non-resident person. Without this amendment, clause f has the effect that a corporation whose shares were owned by a corporation incorporated outside Canada would be defined as a non-resident corporation although the corporation that owned the shares might be a resident corporation because it, in turn, had issued its shares to persons who were not non-resident persons. The non-residence of a corporation or chain of corporations will, following the amendments, depend on the residence or non-residence of the shareholders who control the corporation or chain of corporations.

BILL 136**1974**

**An Act to amend
The Land Transfer Tax Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *c* of subsection 1 of section 1 of *The Land Transfer Tax Act, 1974*, being chapter 8, is amended by adding at the end thereof “and a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed”.

 (2) Subclauses *i* and *ii* of clause *f* of subsection 1 of the said section 1 are repealed and the following substituted there-<sup>s.1(1)(f),
(i),(ii),
re-enacted</sup> for:

(i) that has allotted and issued shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by one or more non-resident persons, but this subclause does not apply where it is established to the satisfaction of the Minister that such one or more non-resident persons do not in fact directly or indirectly exercise control over the corporation and that subclause *v* does not apply to the corporation,

(ii) that has allotted and issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one non-resident person, but this subclause does not apply where it is established to the satisfaction of the Minister that such non-resident person does not in fact directly or indirectly exercise control over the corporation and that subclause *v* does not apply to the corporation. 

s. 1 (1) (g),
amended

- (3) Clause *g* of subsection 1 of the said section 1 is amended by striking out "partnership property" in the fourteenth line and inserting in lieu thereof "property of such partnership, syndicate, association or other organization" and by striking out "established by a non-resident person within the meaning of subclause i, ii or iv or" in the seventeenth, eighteenth and nineteenth lines.

s. 1 (1) (m),
amended

- (4) Clause *m* of subsection 1 of the said section 1 is amended by striking out "or" at the end of subclause iii and by adding thereto the following subclauses:

(v) in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of subsection 4, the fair market value, ascertained as at the time of the tender for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed, or

(vi) in the case of a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed and that is not a notice in writing described in subclause v, the value of the consideration, determined under subclauses i to iv, for the land conveyed by the instrument or writing that is referred to in such notice or caution in writing that is not a notice in writing described in subclause v.

s. 1 (3) (a),
repealed

- (5) Clause *a* of subsection 3 of the said section 1 is repealed.

s. 1,
amended

- (6) The said section 1 is amended by adding thereto the following subsection:

No tax on
certain
leases

(4) Notwithstanding any other provision of this Act, no tax is payable on the tender for registration of a conveyance that is a lease of land, the transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land if the lease, at the time the lease or transfer or notice of either of them is tendered for registration, is for an unexpired term which, including any renewals or extensions of such term provided for in the lease, cannot exceed fifty years.

Subsection 3. The amendment clarifies the application of subclause ii, and provides that a trust will not be made a non-resident person simply because the settlor of the trust was non-resident at the time the trust was established. Following the amendment, the trust will be a non-resident person only if 50 per cent or more of the beneficial interests in the trust are held by non-resident persons.

Subsection 4. The amendment provides for the determination of the value of consideration in the case of leases exceeding fifty years and in the case of the registration of a notice or caution in writing included as a conveyance by the amendment made to clause c of subsection 1 of section 1 of the Act. In the case of leases, a subsequent amendment will provide for the exemption of leases that do not exceed fifty years, and in the case of notices or cautions of instruments that convey land, a subsequent amendment will provide for a refund of any tax paid where the notice or caution registered is of an agreement that is not completed.

Subsection 5. The meaning of the expression "ordinarily resident" is altered to remove the provision making a landed immigrant ordinarily resident in Canada immediately upon his admission to Canada for permanent residence. During the 366 days following his admission to Canada, the exemptions from the higher rate of tax and the deferrals of tax to be proposed in amendments to section 16 of the Act will be available to the landed immigrant.

Subsection 6. This amendment exempts from tax leases, assignments of leases, and notices of such leases or assignments if the unexpired term in the lease cannot exceed fifty years at the time the instrument is tendered for registration. Under amendments proposed earlier to clause m of subsection 1 of section 1 of the Act, leases, assignments, and notices thereof that are not exempt from tax will have a value of consideration equal to the fair market value of the land to which the lease extends or the fair market value of a part of that land where only a part of the land is dealt with in the lease or assignment.

SECTION 2.—Subsection 1. The amendment clarifies that where in the same transaction more than one conveyance is registered and the value of the consideration applies to both conveyances, tax is payable only once.

Subsection 2. This amendment clarifies that the certification provided for in subsection 5 may be given where no tax is payable.

SECTION 3.—Subsection 1. This amendment is consequential on the addition of subsection 7 to section 4.

Subsection 2. The purpose of this amendment is to dispense with the filing of an affidavit of residence where the transferee named in the conveyance cannot be a non-resident person. Provision is also made to enable the Minister to prescribe by regulation corporations and individuals acting in an official capacity who, for example, by virtue of the statute that creates them or gives them authority, are not non-resident persons.

SECTION 4. Section 6 of the Act is repealed because its purpose has been served, and the special lien created by the section is no longer of any effect.

SECTION 5. This amendment provides that where a notice or caution in writing is registered of a conveyance that is an agreement to transfer or extinguish an interest in land, and where tax is paid on the registration of the notice, the tax is to be refunded if the agreement is not completed.

- 2.**—(1) Subsection 3 of section 2 of the said Act is amended by <sup>s. 2(3),
amended</sup> adding at the end thereof “and where the Minister or a collector is satisfied that the value of the consideration for a conveyance that has been registered is the value of the consideration for a subsequently registered conveyance that does not create with respect to the land conveyed any beneficial interest therein in any person beyond that evidenced by the first mentioned conveyance, and if the conveyances are made as part of the same transaction, tax is payable only once and upon the value of the consideration for the first of such conveyances that was registered”.
- (2) Subsection 5 of the said section 2 is amended by insert- <sup>s. 2(5),
amended</sup> ing after “paid” in the fourth line “or that no tax is payable” and by inserting after “that” where it occurs in the first instance in the ninth line “no tax is payable or that”.
- 3.**—(1) Subsection 6 of section 4 of the said Act is amended by <sup>s. 4(6),
amended</sup> adding at the commencement thereof ‘‘Except as provided in subsection 7.’’.
- (2) The said section 4 is amended by adding thereto the <sup>s. 4,
amended</sup> following subsection:
- (7) Notwithstanding subsection 3, no affidavit is required under that subsection on the tender for registration of a conveyance to or in trust for a transferee who is expressly named in the conveyance and who is Her Majesty in right of Ontario, Her Majesty in right of Canada, a Crown agency within the meaning of *The Crown Agency Act*, the corporation of a municipality, including a district, metropolitan or regional municipality, in Ontario, a local board, as defined in *The Municipal Affairs Act*, of any such municipality in Ontario or Ontario Hydro or any corporation prescribed by the Minister by regulation or any individual acting in an official capacity prescribed by the Minister by regulation, but the Minister may make regulations under this subsection only if he is satisfied that the corporation or the official capacity of the individual is such that the corporation or the individual acting in his official capacity is not, and is not likely to become, a non-resident person.

4. Section 6 of the said Act is repealed.

<sup>s. 6,
repealed</sup>

5. Section 8 of the said Act is amended by adding thereto the <sup>s. 8,
amended</sup> following subsection:

(3) Where a conveyance is registered that is a notice or caution in writing signifying the existence of any instru- <sup>Refund of
tax where
land not
transferred</sup>

ment or writing by which land is conveyed, and the instrument or writing described in the notice or caution evidences an agreement to transfer or extinguish an interest in land, the Treasurer shall, where the Minister is satisfied that the transfer or extinguishment contemplated in the agreement has not taken place, refund any tax paid on the tender for registration of the conveyance.

s. 14 (2),
amended

6. Subsection 2 of section 14 of the said Act is amended by striking out “the designated land the tax imposed on which is under appeal” in the sixth and seventh lines and inserting in lieu thereof “the land the tax on the tender for registration of a conveyance of which is under appeal”.

s. 16 (1),
re-enacted

7.—(1) Subsection 1 of section 16 of the said Act is repealed and the following substituted therefor:

(1) Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person, and that non-resident person satisfies the Minister that the land was or is to be acquired,

- (a) for the purpose of the development and resale of land for residential, commercial or industrial purposes;
- (b) for the purpose of establishing, expanding or relocating any active commercial or industrial business that is or will be carried on by the non-resident person who shall undertake to obtain, within such time as is agreed upon with the Minister, any zoning changes necessary to permit the land to be used as proposed and to complete, within such time as is agreed upon with the Minister, the establishment, expansion or relocation for which the land was or is to be acquired;
- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within five years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;
- (d) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;

Deferral or
remission of
tax on
certain
conveyances
to non-
residents

SECTION 6. The amendment removes a reference to designated land, and substitutes a reference to the land the registration of the conveyance of which has given rise to tax that is under appeal.

SECTION 7.—Subsection 1. The amendment specifies a number of cases in which the Minister, with the approval of the Lieutenant Governor in Council, is empowered to defer or remit tax conditional on the performance of obligations undertaken by a person acquiring the land with respect to which the deferral or remission is authorized.

Subsection 2. The amendment is consequential on the re-enactment of subsection 4 of section 16.

- (e) by a non-resident corporation that is a non-resident person because of the ownership of shares in that corporation, whether directly or indirectly, by a non-resident person described in clause *c* who undertakes to the Minister that the corporation will cease to be a non-resident person within five years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;
- (f) by a non-resident corporation that is a non-resident person because of the ownership of shares in that corporation, whether directly or indirectly, by a non-resident person described in clause *d* who undertakes to the Minister that the corporation will cease to be a non-resident person within two years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land; or
- (g) by a non-resident corporation that undertakes to the Minister to cease to be a non-resident corporation within five years from the date of the grant of the deferral or remission under this subsection with respect to the acquisition of the land,

the Minister may, with the approval of the Lieutenant Governor in Council, defer the payment of the tax, or remit the tax paid, on such conditions as to the use and development of the land or otherwise as are considered advisable and sufficient to ensure the development of the land as proposed or compliance with any undertakings given by the non-resident person acquiring the land, and any tax deferred or remitted under this subsection constitutes a first lien and charge in favour of Her Majesty in right of Ontario on the land so acquired or to be acquired, and the lien and charge shall be effective upon registration by the Minister of a notice thereof, and the Minister may discharge the lien and charge in whole or in part as the conditions that he has imposed or the undertakings that have been given to him are fulfilled or complied with, and may, where he considers it necessary and advisable to enable the performance of any condition or undertaking, postpone, release or waive the lien and charge with respect to all or any part of any land affected by the lien and charge.

- (2) Subsection 2 of the said section 16 is amended by <sup>s. 16(2),
amended</sup> striking out “, or a rebate under subsection 4,” in the first and second lines.

s. 16(4),
re-enacted

Reduction of
tax in
certain cases

R.S.C. 1970,
c. I-2

(3) Subsection 4 of the said section 16 is repealed and the following substituted therefor:

(4) Upon the tender for registration of a conveyance that is described in any of clauses *a* to *e* and that is made to a non-resident person, the tax imposed by subsection 2 of section 2 shall, notwithstanding any other provision of this Act, be reduced to an amount equal to the tax that would result if only the rates of tax mentioned in subsection 1 of section 2 were applicable,

- (a) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,
 - (i) that he has been lawfully admitted to Canada and is lawfully in Canada as an immigrant admitted under the *Immigration Act* (Canada) for permanent residence in Canada, or that he is lawfully in Canada for the purpose of engaging in a trade, profession, calling, occupation or employment that he is authorized to engage in in Canada, and the nature of that trade, profession, calling, occupation or employment,
 - (ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon his principal residence in Canada, and will not be used as the residence of persons other than the transferee or members of his family or members of his usual domestic establishment,
 - (iii) the number and expiration date of the employment visa, if any, issued to him pursuant to the *Immigration Act* (Canada) or regulations made thereunder and the length of time during which he intends to engage in the trade, profession, calling, occupation or employment for which he was admitted into Canada, and
 - (iv) that he is not in Canada as a tourist or visitor or for the purpose of passing through Canada to another country, or as a student admitted to Canada under the provisions of paragraph *f* of subsection 1 of section 7 of the *Immigration Act* (Canada);

Subsection 3. This amendment re-enacts subsection 4 and adds two new subsections to section 16. Subsection 4 deals with certain conveyances to non-resident persons on which the tax is reduced from 20 per cent to the rates of tax specified in subsection 1 of section 2 of the Act. The conveyances for which this reduction is available must have attached to them an affidavit of the transferee to whom the conveyance is made which will state the existence of the conditions entitling the person tendering the conveyance for registration to a reduction of the tax otherwise imposed by the Act.

The addition of subsection 5 deals with the situation where land is expropriated or is sold to some authority in a position to expropriate the land. Where the person who has lost the land wishes to acquire additional land to replace it, the value of the consideration for the additional land is to be reduced by the amount of compensation attributable to the land that was expropriated or sold under threat of expropriation.

The addition of subsection 6 creates an offence where a person knowingly makes a false affidavit required by subsection 4.

- (b) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,
 - (i) that the transferee is a Canadian citizen, and
 - (ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon a place of residence or recreation to be his principal residence or principal recreational property upon his return to Canada to take up permanent residence in Canada;
- (c) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,
 - (i) that the transferee, on and after the 9th day of April, 1974, has continuously occupied premises in Canada where the transferee carried on an active commercial or industrial business that is not principally,
 - (A) the rental of land or premises for possession or occupancy for a period of one month or more,
 - (B) the acquisition of land,
 - (C) the sale of land owned by the seller,
 - (D) the holding of land, or
 - (E) the development of land,
 - (ii) the nature of such business so carried on by the transferee, and the principal location in Canada from which such business is carried on, and
 - (iii) that the land being conveyed to the transferee is being acquired for the purpose of enabling the transferee to acquire the freehold of only the leased premises on which such business is being carried on and not of other premises, or is being acquired for the purpose of expanding or relocating the operations of



such business where such expansion or relocation is not prevented by any zoning restrictions affecting the land conveyed;

(d) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, and stating that the land being conveyed to him is being acquired by him as part of his normal business practice and either,

- (i) for the principal purpose of selling the land to an employee of the transferee or to such employee and his spouse as the residence of that employee and members of his family or members of his usual domestic establishment, or
- (ii) for the principal purpose of making the land available for the exclusive use of his employees and members of their families or members of their usual domestic establishments as a place of residence; or

(e) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,

- (i) that the land being conveyed to him is being acquired by him as the result of a final order of foreclosure under a mortgage or charge affecting the land or is being acquired in any other manner for the sole purpose of satisfying the obligations of the transferor to the transferee under a mortgage or charge affecting the land,
- (ii) that the land being conveyed to him is being acquired by him only for the purpose of safeguarding or giving effect to rights or interests of the transferee as mortgagee or chargee and in respect of an outstanding loan that was owed by the transferor to the transferee and that is in default,
- (iii) that the transferee is dealing in all respects with the transferor as though the parties were strangers, and

(iv) that the conveyance was not arranged with the intention of defeating the incidence of tax imposed by this Act.

(5) Where it is established to the satisfaction of the Minister that land being acquired by a person is acquired for the purpose of replacing land that was taken from him under statutory authority, that was sold by him to a person by whom notice of an intention to take the land under statutory authority was given, or that was sold by him to a person having the power to take the land under statutory authority and in the reasonable expectation that, had the land not been so sold, it would have been taken from him by that person under statutory authority, the value of the consideration for the land being so acquired shall be reduced by an amount equal to the proceeds of sale reasonably attributable to the land that was so taken or sold.

(6) Every person who, knowing it to be false, makes an affidavit described in subsection 4, is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$1,000.

- 8.**—(1) This Act, except section 4, comes into force on the day it receives Royal Assent.
- (2) Section 4 shall be deemed to have come into force on the 10th day of April, 1974.
- 9.** This Act may be cited as *The Land Transfer Tax Amendment Act, 1974* (No. 2).

An Act to amend
The Land Transfer Tax Act, 1974

1st Reading

November 8th, 1974

2nd Reading

November 25th, 1974

3rd Reading

THE HON. A. K. MEEN
Minister of Revenue

(Reprinted as amended by the
Administration of Justice Committee)

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4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

-B 56

An Act to amend The Land Transfer Tax Act, 1974

THE HON. A. K. MEEN
Minister of Revenue



TORONTO

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BILL 136**1974**

**An Act to amend
The Land Transfer Tax Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *c* of subsection 1 of section 1 of *The Land Transfer Tax Act, 1974*, being chapter 8, is amended by adding at the end thereof “and a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed”.
- (2) Subclauses *i* and *ii* of clause *f* of subsection 1 of the said section 1 are repealed and the following substituted therefor:
 - (i) that has allotted and issued shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by one or more non-resident persons, but this subclause does not apply where it is established to the satisfaction of the Minister that such one or more non-resident persons do not in fact directly or indirectly exercise control over the corporation and that subclause *v* does not apply to the corporation,
 - (ii) that has allotted and issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one non-resident person, but this subclause does not apply where it is established to the satisfaction of the Minister that such non-resident person does not in fact directly or indirectly exercise control over the corporation and that subclause *v* does not apply to the corporation.

s. 1(1)(g),
amended

(3) Clause *g* of subsection 1 of the said section 1 is amended by striking out "partnership property" in the fourteenth line and inserting in lieu thereof "property of such partnership, syndicate, association or other organization" and by striking out "established by a non-resident person within the meaning of subclause i, ii or iv or" in the seventeenth, eighteenth and nineteenth lines.

s. 1(1)(m),
amended

(4) Clause *m* of subsection 1 of the said section 1 is amended by striking out "or" at the end of subclause iii and by adding thereto the following subclauses:

(v) in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of subsection 4, the fair market value, ascertained as at the time of the tender for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed, or

(vi) in the case of a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed and that is not a notice in writing described in subclause v, the value of the consideration, determined under subclauses i to iv, for the land conveyed by the instrument or writing that is referred to in such notice or caution in writing that is not a notice in writing described in subclause v.

s. 1 (3)(a),
repealed

(5) Clause *a* of subsection 3 of the said section 1 is repealed.

s. 1,
amended

(6) The said section 1 is amended by adding thereto the following subsection:

No tax on
certain
leases

(4) Notwithstanding any other provision of this Act, no tax is payable on the tender for registration of a conveyance that is a lease of land, the transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land if the lease, at the time the lease or transfer or notice of either of them is tendered for registration, is for an unexpired term which, including any renewals or extensions of such term provided for in the lease, cannot exceed fifty years.

2.—(1) Subsection 3 of section 2 of the said Act is amended by adding at the end thereof “and where the Minister or a collector is satisfied that the value of the consideration for a conveyance that has been registered is the value of the consideration for a subsequently registered conveyance that does not create with respect to the land conveyed any beneficial interest therein in any person beyond that evidenced by the first mentioned conveyance, and if the conveyances are made as part of the same transaction, tax is payable only once and upon the value of the consideration for the first of such conveyances that was registered”.

(2) Subsection 5 of the said section 2 is amended by inserting after “paid” in the fourth line “or that no tax is payable” and by inserting after “that” where it occurs in the first instance in the ninth line “no tax is payable or that”.

3.—(1) Subsection 6 of section 4 of the said Act is amended by adding at the commencement thereof “Except as provided in subsection 7.”.

(2) The said section 4 is amended by adding thereto the following subsection:

(7) Notwithstanding subsection 3, no affidavit is required under that subsection on the tender for registration of a conveyance to or in trust for a transferee who is expressly named in the conveyance and who is Her Majesty in right of Ontario, Her Majesty in right of Canada, a Crown agency within the meaning of *The Crown Agency Act*, the corporation of a municipality, including a district, metropolitan or regional municipality, in Ontario, a local board, as defined in *The Municipal Affairs Act*, of any such municipality in Ontario or Ontario Hydro or any corporation prescribed by the Minister by regulation or any individual acting in an official capacity prescribed by the Minister by regulation, but the Minister may make regulations under this subsection only if he is satisfied that the corporation or the official capacity of the individual is such that the corporation or the individual acting in his official capacity is not, and is not likely to become, a non-resident person.

R.S.O. 1970,
cc. 100, 118

4. Section 6 of the said Act is repealed.

s. 6,
repealed

5. Section 8 of the said Act is amended by adding thereto the following subsection:

(3) Where a conveyance is registered that is a notice or caution in writing signifying the existence of any instru-

Refund of
tax where
land not
transferred

ment or writing by which land is conveyed, and the instrument or writing described in the notice or caution evidences an agreement to transfer or extinguish an interest in land, the Treasurer shall, where the Minister is satisfied that the transfer or extinguishment contemplated in the agreement has not taken place, refund any tax paid on the tender for registration of the conveyance.

s. 14 (2),
amended

6. Subsection 2 of section 14 of the said Act is amended by striking out “the designated land the tax imposed on which is under appeal” in the sixth and seventh lines and inserting in lieu thereof “the land the tax on the tender for registration of a conveyance of which is under appeal”.

s. 16 (1),
re-enacted

7.—(1) Subsection 1 of section 16 of the said Act is repealed and the following substituted therefor:

Deferral or
remission of
tax on
certain
conveyances
to non-
residents

(1) Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person, and that non-resident person satisfies the Minister that the land was or is to be acquired,

- (a) for the purpose of the development and resale of land for residential, commercial or industrial purposes;
- (b) for the purpose of establishing, expanding or relocating any active commercial or industrial business that is or will be carried on by the non-resident person who shall undertake to obtain, within such time as is agreed upon with the Minister, any zoning changes necessary to permit the land to be used as proposed and to complete, within such time as is agreed upon with the Minister, the establishment, expansion or relocation for which the land was or is to be acquired;
- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within five years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;
- (d) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;

- (e) by a non-resident corporation that is a non-resident person because of the ownership of shares in that corporation, whether directly or indirectly, by a non-resident person described in clause *c* who undertakes to the Minister that the corporation will cease to be a non-resident person within five years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;
- (f) by a non-resident corporation that is a non-resident person because of the ownership of shares in that corporation, whether directly or indirectly, by a non-resident person described in clause *d* who undertakes to the Minister that the corporation will cease to be a non-resident person within two years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land; or
- (g) by a non-resident corporation that undertakes to the Minister to cease to be a non-resident corporation within five years from the date of the grant of the deferral or remission under this subsection with respect to the acquisition of the land,

the Minister may, with the approval of the Lieutenant Governor in Council, defer the payment of the tax, or remit the tax paid, on such conditions as to the use and development of the land or otherwise as are considered advisable and sufficient to ensure the development of the land as proposed or compliance with any undertakings given by the non-resident person acquiring the land, and any tax deferred or remitted under this subsection constitutes a first lien and charge in favour of Her Majesty in right of Ontario on the land so acquired or to be acquired, and the lien and charge shall be effective upon registration by the Minister of a notice thereof, and the Minister may discharge the lien and charge in whole or in part as the conditions that he has imposed or the undertakings that have been given to him are fulfilled or complied with, and may, where he considers it necessary and advisable to enable the performance of any condition or undertaking, postpone, release or waive the lien and charge with respect to all or any part of any land affected by the lien and charge.

- (2) Subsection 2 of the said section 16 is amended by ^{s. 16 (2).}
amended
striking out “, or a rebate under subsection 4,” in
the first and second lines.

s. 16(4),
re-enacted

Reduction of
tax in
certain cases

R.S.C. 1970,
c. I-2

(3) Subsection 4 of the said section 16 is repealed and the following substituted therefor:

(4) Upon the tender for registration of a conveyance that is described in any of clauses *a* to *e* and that is made to a non-resident person, the tax imposed by subsection 2 of section 2 shall, notwithstanding any other provision of this Act, be reduced to an amount equal to the tax that would result if only the rates of tax mentioned in subsection 1 of section 2 were applicable,

(a) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,

(i) that he has been lawfully admitted to Canada and is lawfully in Canada as an immigrant admitted under the *Immigration Act* (Canada) for permanent residence in Canada, or that he is lawfully in Canada for the purpose of engaging in a trade, profession, calling, occupation or employment that he is authorized to engage in in Canada, and the nature of that trade, profession, calling, occupation or employment,

(ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon his principal residence in Canada, and will not be used as the residence of persons other than the transferee or members of his family or members of his usual domestic establishment,

(iii) the number and expiration date of the employment visa, if any, issued to him pursuant to the *Immigration Act* (Canada) or regulations made thereunder and the length of time during which he intends to engage in the trade, profession, calling, occupation or employment for which he was admitted into Canada, and

(iv) that he is not in Canada as a tourist or visitor or for the purpose of passing through Canada to another country, or as a student admitted to Canada under the provisions of paragraph *f* of subsection 1 of section 7 of the *Immigration Act* (Canada);

- (b) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,
 - (i) that the transferee is a Canadian citizen, and
 - (ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon a place of residence or recreation to be his principal residence or principal recreational property upon his return to Canada to take up permanent residence in Canada;
- (c) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,
 - (i) that the transferee, on and after the 9th day of April, 1974, has continuously occupied premises in Canada where the transferee carried on an active commercial or industrial business that is not principally,
 - (A) the rental of land or premises for possession or occupancy for a period of one month or more,
 - (B) the acquisition of land,
 - (C) the sale of land owned by the seller,
 - (D) the holding of land, or
 - (E) the development of land,
 - (ii) the nature of such business so carried on by the transferee, and the principal location in Canada from which such business is carried on, and
 - (iii) that the land being conveyed to the transferee is being acquired for the purpose of enabling the transferee to acquire the freehold of only the leased premises on which such business is being carried on and not of other premises, or is being acquired for the purpose of expanding or relocating the operations of

such business where such expansion or relocation is not prevented by any zoning restrictions affecting the land conveyed;

(d) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, and stating that the land being conveyed to him is being acquired by him as part of his normal business practice and either,

(i) for the principal purpose of selling the land to an employee of the transferee or to such employee and his spouse as the residence of that employee and members of his family or members of his usual domestic establishment, or

(ii) for the principal purpose of making the land available for the exclusive use of his employees and members of their families or members of their usual domestic establishments as a place of residence; or

(e) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,

(i) that the land being conveyed to him is being acquired by him as the result of a final order of foreclosure under a mortgage or charge affecting the land or is being acquired in any other manner for the sole purpose of satisfying the obligations of the transferor to the transferee under a mortgage or charge affecting the land,

(ii) that the land being conveyed to him is being acquired by him only for the purpose of safeguarding or giving effect to rights or interests of the transferee as mortgagee or chargee and in respect of an outstanding loan that was owed by the transferor to the transferee and that is in default,

(iii) that the transferee is dealing in all respects with the transferor as though the parties were strangers, and

(iv) that the conveyance was not arranged with the intention of defeating the incidence of tax imposed by this Act.

(5) Where it is established to the satisfaction of the Minister that land being acquired by a person is acquired for the purpose of replacing land that was taken from him under statutory authority, that was sold by him to a person by whom notice of an intention to take the land under statutory authority was given, or that was sold by him to a person having the power to take the land under statutory authority and in the reasonable expectation that, had the land not been so sold, it would have been taken from him by that person under statutory authority, the value of the consideration for the land being so acquired shall be reduced by an amount equal to the proceeds of sale reasonably attributable to the land that was so taken or sold.

(6) Every person who, knowing it to be false, makes an affidavit described in subsection 4, is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$1,000.

- 8.**—(1) This Act, except section 4, comes into force on the day it receives Royal Assent.
- (2) Section 4 shall be deemed to have come into force on the 10th day of April, 1974.
- 9.** This Act may be cited as *The Land Transfer Tax Amendment Act, 1974* (No. 2).

An Act to amend
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THE HON. A. K. MEEN
Minister of Revenue

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